

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

1 AMEND House Committee Substitute for Senate Substitute for Senate Bill No. 181, Page 9, Section  
2 361.749, Line 210, by inserting after all of said section and line the following:

3  
4 "361.900. Sections 361.900 to 361.1035 shall be known and may be cited as the "Money  
5 Transmission Modernization Act of 2023".

6 361.903. Sections 361.900 to 361.1035 are designed to replace existing state money  
7 transmission laws currently codified in law and to:

8 (1) Ensure states may coordinate in all areas of regulation, licensing, and supervision to  
9 eliminate unnecessary regulatory burden and more effectively utilize regulator resources;

10 (2) Protect the public from financial crime;

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

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

15 361.906. For purposes of sections 361.900 to 361.1035, the following terms shall mean:

16 (1) "Acting in concert", persons knowingly acting together with a common goal of jointly  
17 acquiring control of a licensee, regardless of whether under an express agreement;

18 (2) "Authorized delegate", a person that a licensee designates to engage in money  
19 transmission on behalf of the licensee;

20 (3) "Average daily money transmission liability", the amount of the licensee's outstanding  
21 money transmission obligations in this state at the end of each day in a given period of time, added  
22 together, and divided by the total number of days in the given period of time. For purposes of  
23 calculating average daily money transmission liability under sections 361.900 to 361.1035 for any  
24 licensee required to do so, the given period of time shall be the quarters ending March thirty-first,  
25 June thirtieth, September thirtieth, and December thirty-first;

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

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

Action Taken \_\_\_\_\_ Date \_\_\_\_\_

1       (6) "Commissioner", the commissioner of the Missouri division of finance;

2       (7) "Control":

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

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

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

10  
11 A person is presumed to exercise a controlling influence if the person holds the power to vote,  
12 directly or indirectly, at least ten percent of the outstanding voting shares or voting interests of a  
13 licensee or person in control of a licensee. A person presumed to exercise a controlling influence as  
14 defined under this subdivision can rebut the presumption of control if the person is a passive  
15 investor. For purposes of determining the percentage of a person controlled by any other person, the  
16 person's interest shall be aggregated with the interest of any other immediate family member,  
17 including the person's spouse, parents, children, siblings, mothers- and fathers-in law, sons- and  
18 daughters-in-law, brothers- and sisters-in-law, and any other person who shares such person's home;

19       (8) "Eligible rating", a credit rating of any of the three highest rating categories provided by  
20 an eligible rating service. Each category may include rating category modifiers such as "plus" or  
21 "minus" for Standard and Poor's or the equivalent for any other eligible rating service;

22       (9) "Eligible rating service", any nationally recognized statistical rating organization  
23 (NRSRO) as defined by the United States Securities and Exchange Commission and any other  
24 organization designated by rule or order;

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

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

37       (12) "Individual", a natural person;

38       (13) "Key individual", any individual ultimately responsible for establishing or directing  
39 policies and procedures of the licensee, such as an executive officer, manager, director, or trustee;

1       (14) "Licensee", a person licensed under sections 361.900 to 361.1035;

2       (15) "Material litigation", litigation that, according to United States generally accepted  
3 accounting principles, is significant to a person's financial health and would be required to be  
4 disclosed in the person's annual audited financial statements, report to shareholders, or similar  
5 records;

6       (16) "Monetary value", a medium of exchange, regardless of whether redeemable in money;

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

10       (18) "Money transmission", any of the following:

11       (a) Selling or issuing payment instruments to a person located in this state;

12       (b) Selling or issuing stored value to a person located in this state; or

13       (c) Receiving money for transmission from a person located in this state.

14  
15 The term includes payroll processing services. The term does not include the provision solely of  
16 online or telecommunications services or network access;

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

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

25       (21) "Outstanding money transmission obligations":

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

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

33  
34 For purposes of this subdivision, "in the United States" shall include, to the extent applicable, a  
35 person in any state, territory, or possession of the United States; the District of Columbia; the  
36 Commonwealth of Puerto Rico; or a U.S. military installation that is located in a foreign country;

37       (22) "Passive investor", a person that:

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

1 of a licensee;

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

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

6 (d) Either:

7 a. Attests to paragraphs (a), (b), and (c) of this subdivision, in a form and in a medium  
8 prescribed by the commissioner; or

9 b. Commits to the passivity characteristics of paragraphs (a), (b), and (c) of this subdivision  
10 in a written document;

11 (23) "Payment instrument", a written or electronic check, draft, money order, traveler's  
12 check, or other written or electronic instrument for the transmission or payment of money or  
13 monetary value, regardless of whether negotiable. The term does not include stored value or any  
14 instrument that:

15 (a) Is redeemable by the issuer only for goods or services provided by the issuer or its  
16 affiliate or franchisees of the issuer or its affiliate, except to the extent required by applicable law to  
17 be redeemable in cash for its cash value; or

18 (b) Is not sold to the public but issued and distributed as part of a loyalty, rewards, or  
19 promotional program;

20 (24) "Payroll processing services", receiving money for transmission under a contract with a  
21 person to deliver wages or salaries, make payment of payroll taxes to state and federal agencies,  
22 make payments relating to employee benefit plans, or make distributions of other authorized  
23 deductions from wages or salaries. The term does not include an employer performing payroll  
24 processing services on its own behalf or on behalf of its affiliate or a professional employer  
25 organization subject to regulation under sections 285.700 to 285.750;

26 (25) "Person", any individual, general partnership, limited partnership, limited liability  
27 company, corporation, trust, association, joint stock corporation, or other corporate entity identified  
28 by the commissioner;

29 (26) "Receiving money for transmission" or "money received for transmission", receiving  
30 money or monetary value in the United States for transmission within or outside the United States  
31 by electronic or other means;

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

39 (28) "Tangible net worth", the aggregate assets of a licensee excluding all intangible assets,

1 less liabilities, as determined in accordance with United States generally accepted accounting  
2 principles.

3 361.909. Sections 361.900 to 361.1035 shall not apply to:

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

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

11 (a) There exists a written agreement between the payee and the agent directing the agent to  
12 collect and process payments from a payer on the payee's behalf;

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

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

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

21 (a) Is properly licensed or exempt from licensing requirements under sections 361.900 to  
22 361.1035;

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

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

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

29 (5) Money transmission by the United States Postal Service or by an agent of the United  
30 States Postal Service;

31 (6) A state, county, city, or any other governmental agency or governmental subdivision or  
32 instrumentality of a state, or its agent;

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

1       (8) Electronic funds transfer of governmental benefits for a federal, state, county, or  
2 governmental agency by a contractor on behalf of the United States or a department, agency, or  
3 instrumentality thereof, or on behalf of a state or governmental subdivision, agency, or  
4 instrumentality thereof;

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

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

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

13       (12) An individual employed by a licensee, authorized delegate, or any person exempted  
14 from the licensing requirements under sections 361.900 to 361.1035 if acting within the scope of  
15 employment and under the supervision of the licensee, authorized delegate, or exempted person as  
16 an employee and not as an independent contractor; and

17       (13) A person expressly appointed as a third party service provider to or agent of an entity  
18 exempt under subdivision (7) of this subsection solely to the extent that:

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

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

26       361.912. The commissioner may require that any person claiming to be exempt from  
27 licensing under section 361.909 provide information and documentation to the commissioner  
28 demonstrating that the person qualifies for any claimed exemption.

29       361.915. 1. In order to carry out the purposes of sections 361.900 to 361.1035, the  
30 commissioner may, subject to the provisions of subsections 1 and 2 of section 361.918:

31       (1) Enter into agreements or relationships with other government officials or federal and  
32 state regulatory agencies and regulatory associations in order to improve efficiencies and reduce  
33 regulatory burden by standardizing methods or procedures, and sharing resources, records, or related  
34 information obtained under sections 361.900 to 361.1035;

35       (2) Use, hire, contract, or employ analytical systems, methods, or software to examine or  
36 investigate any person subject to sections 361.900 to 361.1035;

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

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

4       2. The commissioner shall have the broad administrative authority to:

5       (1) Administer, interpret, and enforce sections 361.900 to 361.1035 and promulgate rules or  
6 regulations implementing sections 361.900 to 361.1035; and

7       (2) To recover the cost of administering and enforcing sections 361.900 to 361.1035 by  
8 imposing and collecting proportionate and equitable fees and costs associated with applications,  
9 examinations, investigations, and other actions required to achieve the purpose of sections 361.900  
10 to 361.1035.

11       3. The commissioner shall promulgate all necessary rules and regulations for the  
12 administration of sections 361.900 to 361.1035. Any rule or portion of a rule, as that term is defined  
13 in section 536.010, that is created under the authority delegated in this section shall become  
14 effective only if it complies with and is subject to all of the provisions of chapter 536 and, if  
15 applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers  
16 vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to  
17 disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking  
18 authority and any rule proposed or adopted after August 28, 2023, shall be invalid and void.

19       361.918. 1. Except as otherwise provided in subsection 2 of this section, all information or  
20 reports obtained by the commissioner from an applicant, licensee, or authorized delegate and all  
21 information contained in or related to an examination, investigation, operating report, or condition  
22 report prepared by, on behalf of, or for the use of the commissioner, or financial statements, balance  
23 sheets, or authorized delegate information, are confidential and are not subject to disclosure under  
24 chapter 610.

25       2. The commissioner may disclose information not otherwise subject to disclosure under  
26 subsection 1 of this section to representatives of state or federal agencies who shall confirm in  
27 writing that they will maintain the confidentiality of the information.

28       3. This section does not prohibit the commissioner from disclosing to the public a list of all  
29 licensees or the aggregated financial or transactional data concerning those licensees.

30       361.921. 1. The commissioner may conduct an examination or investigation of a licensee or  
31 authorized delegate or otherwise take independent action authorized by sections 361.900 to  
32 361.1035 or by a rule adopted or order issued under sections 361.900 to 361.1035 as reasonably  
33 necessary or appropriate to administer and enforce sections 361.900 to 361.1035, regulations  
34 implementing sections 361.900 to 361.1035, and other applicable law, including the Bank Secrecy  
35 Act and the USA PATRIOT Act. The commissioner may:

36       (1) Conduct an examination either onsite or offsite as the commissioner may reasonably  
37 require;

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

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

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

7       2. A licensee or authorized delegate shall provide, and the commissioner shall have full and  
8 complete access to, all records the commissioner may reasonably require to conduct a complete  
9 examination. The records shall be provided at the location and in the format specified by the  
10 commissioner. The commissioner may utilize multistate record production standards and  
11 examination procedures when such standards will reasonably achieve the requirements of this  
12 subsection.

13       3. Unless otherwise directed by the commissioner, a licensee shall pay all costs reasonably  
14 incurred in connection with an examination of the licensee or the licensee's authorized delegates.

15       361.924. 1. To efficiently and effectively administer and enforce sections 361.900 to  
16 361.1035 and to minimize regulatory burden, the commissioner is authorized to participate in  
17 multistate supervisory processes established between states or coordinated through the Conference  
18 of State Bank Supervisors, Money Transmitter Regulators Association, and affiliates and successors  
19 thereof for all licensees that hold licenses in this state and other states. As a participant in multistate  
20 supervision, the commissioner may:

21       (1) Cooperate, coordinate, and share information with other state and federal regulators in  
22 accordance with section 361.918;

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

26       (3) Cooperate, coordinate, and share information with organizations the membership of  
27 which is made up of state or federal governmental agencies, provided that the organizations agree in  
28 writing to maintain the confidentiality and security of the shared information in accordance with this  
29 section.

30       2. The commissioner shall not waive and nothing in this section constitutes a waiver of the  
31 commissioner's authority to conduct an examination or investigation or otherwise take independent  
32 action authorized by sections 361.900 to 361.1035 or a rule adopted or order issued under sections  
33 361.900 to 361.1035 to enforce compliance with applicable state or federal law.

34       3. A joint examination or investigation, or acceptance of an examination or investigation  
35 report, does not waive an examination assessment provided for in sections 361.900 to 361.1035.

36       361.927. 1. In the event state money transmission jurisdiction is conditioned on a federal  
37 law, any inconsistencies between a provision of sections 361.900 to 361.1035 and the federal law  
38 governing money transmission shall be governed by the applicable federal law to the extent of the  
39 inconsistency.



1           2. In the event of any inconsistencies between sections 361.900 to 361.1035 and a federal  
2 law that governs under subsection 1 of this section, the commissioner may provide interpretive  
3 guidance that:

4           (1) Identifies the inconsistency; and

5           (2) Identifies the appropriate means of compliance with federal law.

6           361.930. 1. A person shall not engage in the business of money transmission or advertise,  
7 solicit, or hold itself out as providing money transmission unless the person is licensed under  
8 sections 361.900 to 361.1035.

9           2. Subsection 1 of this section shall not apply to:

10           (1) A person that is an authorized delegate of a person licensed under sections 361.900 to  
11 361.1035 acting within the scope of authority conferred by a written contract with the licensee; or

12           (2) A person that is exempt under section 361.909 and does not engage in money  
13 transmission outside the scope of such exemption.

14           3. A license issued under section 361.942 shall not be transferable or assignable.

15           361.933. 1. To establish consistent licensing between this state and other states, the  
16 commissioner is authorized to:

17           (1) Implement those licensing provisions of sections 361.900 to 361.1035 in a manner that  
18 is consistent with other states that have adopted the money transmission modernizations act or  
19 multistate licensing processes; and

20           (2) Participate in nationwide protocols for licensing cooperation and coordination among  
21 state regulators, provided that such protocols are consistent with sections 361.900 to 361.1035.

22           2. In order to fulfill the purposes of sections 361.900 to 361.1035, the commissioner is  
23 authorized to establish relationships or contracts with NMLS, other entities designated by NMLS, or  
24 other third parties to enable the commissioner to:

25           (1) Collect and maintain records;

26           (2) Coordinate multistate licensing processes and supervision processes;

27           (3) Process fees; and

28           (4) Facilitate communication between this state and licensees or other persons subject to  
29 sections 361.900 to 361.1035.

30           3. The commissioner is authorized to utilize NMLS for all aspects of licensing in  
31 accordance with sections 361.900 to 361.1035 including, but not limited to, license applications,  
32 applications for acquisitions of control, surety bonds, reporting, criminal history background checks,  
33 credit checks, fee processing, and examinations.

34           4. The commissioner is authorized to utilize NMLS forms, processes, and functionalities in  
35 accordance with sections 361.900 to 361.1035.

36           5. (1) The commissioner is authorized to establish and adopt, by rule or regulation,  
37 requirements for participation by applicants and licensees in NMLS upon the division of finance's  
38 determination that each requirement is consistent with law, public interest, and the purposes of this  
39 section.

1       (2) Any rule or portion of a rule, as that term is defined in section 536.010, that is created  
2 under the authority delegated in this section shall become effective only if it complies with and is  
3 subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and  
4 chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to  
5 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently  
6 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after  
7 August 28, 2023, shall be invalid and void.

8       361.936. 1. Applicants for a license shall apply in a form and in a medium as prescribed by  
9 the commissioner. Each such form shall contain content as set forth by rule, regulation, instruction,  
10 or procedure of the commissioner and may be changed or updated by the commissioner in  
11 accordance with applicable law in order to carry out the purposes of sections 361.900 to 361.1035  
12 and maintain consistency with licensing standards and practices. The application shall state or  
13 contain, as applicable:

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

16       (2) Whether the applicant has been convicted of or pled guilty or nolo contendere to a  
17 felony involving an act of fraud, dishonesty, or a breach of trust or money laundering;

18       (3) A description of any money transmission previously provided by the applicant and the  
19 money transmission that the applicant seeks to provide in this state;

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

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

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

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

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

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

31       (10) A list of any material litigation in which the applicant has been involved in the ten-year  
32 period next preceding the submission of the application; and

33       (11) Any other information the commissioner reasonably requires with respect to the  
34 applicant.

35       2. If an applicant is a corporation, limited liability company, partnership, or other legal  
36 entity, the applicant shall also provide:

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

39       (2) If applicable, a certificate of good standing from the state or country in which the

1 applicant is incorporated or formed;

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

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

7 (5) Whether the applicant has been convicted of or pled guilty or nolo contendere to a  
8 felony involving an act of fraud, dishonesty, or a breach of trust or money laundering;

9 (6) A copy of audited financial statements of the applicant for the most recent fiscal year  
10 and for the two-year period next preceding the submission of the application or, if determined to be  
11 acceptable to the commissioner, certified unaudited financial statements for the most recent fiscal  
12 year or other period acceptable to the commissioner;

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

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

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

20 (a) A corporation publicly traded in the United States, a copy of audited financial statements  
21 for the parent corporation for the most recent fiscal year or a copy of the parent corporation's most  
22 recent report filed under Section 13 of the U.S. Securities Exchange Act of 1934, 15 U.S.C. Section  
23 78m, as amended or recodified from time to time; or

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

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

27 (11) A list of any material litigation in which the applicant has been involved in the ten-year  
28 period next preceding the submission of the application; and

29 (12) Any other information the commissioner reasonably requires with respect to the  
30 applicant.

31 3. A nonrefundable application fee and license fee, as determined by the commissioner,  
32 shall accompany an application for a license under this section.

33 4. The commissioner may waive one or more requirements of subsections 1 and 2 of this  
34 section or permit an applicant to submit other information in lieu of the required information.

35 361.939. 1. Any individual in control of a licensee or applicant, any individual that seeks to  
36 acquire control of a licensee, and each key individual shall furnish to the commissioner through  
37 NMLS the following:

38 (1) The individual's fingerprints for submission to the Federal Bureau of Investigation and  
39 the commissioner for purposes of a national criminal history background check unless the person

1 currently resides outside of the United States and has resided outside of the United States for the last  
2 ten years; and

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

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

7 (b) Whether the individual has been convicted of or pled guilty or nolo contendere to a  
8 felony involving an act of fraud, dishonesty, or a breach of trust or money laundering; and

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

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

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

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

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

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

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

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

28 (c) Employment history;

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

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

33 361.942. 1. If an application for an original license under sections 361.900 to 361.1035  
34 appears to include all the items and addresses and all of the matters that are required, the application  
35 is complete and the commissioner shall promptly notify the applicant in a record of the date on  
36 which the application is determined to be complete, and:

37 (1) The commissioner shall approve or deny the application within one hundred twenty days  
38 after the completion date; or

39 (2) If the application is not approved or denied within one hundred twenty days after the

1 completion date:

2 (a) The application is approved; and

3 (b) The license takes effect as of the first business day after expiration of the one hundred  
4 twenty-day period.

5  
6 The commissioner may for good cause extend the application period.

7 2. A determination by the commissioner that an application is complete and is accepted for  
8 processing means only that the application, on its face, appears to include all of the items, including  
9 the Criminal Background Check response from the Federal Bureau of Investigation, and address all  
10 of the matters that are required, and is not an assessment of the substance of the application or of the  
11 sufficiency of the information provided.

12 3. If an application is filed and considered complete under this section, the commissioner  
13 shall investigate the applicant's financial condition and responsibility, financial and business  
14 experience, character, and general fitness. The commissioner may conduct an onsite investigation  
15 of the applicant, the reasonable cost of which the applicant shall pay. The commissioner shall issue  
16 a license to an applicant under this section if the commissioner finds that all of the following  
17 conditions have been fulfilled:

18 (1) The applicant has complied with the provisions of sections 361.929 and 361.936; and

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

23 4. If an applicant avails itself or is otherwise subject to a multistate licensing process:

24 (1) The commissioner shall be authorized to accept the investigation results of a lead  
25 investigative state for the purpose of subsection 3 of this section if the lead investigative state has  
26 sufficient staffing, expertise, and minimum standards; or

27 (2) If this state is a lead investigative state, the commissioner shall be authorized to  
28 investigate the applicant under subsection 3 of this section and the time frames established by  
29 agreement through the multistate licensing process, provided however, that in no case shall such  
30 time frame be noncompliant with the application period in subdivision (1) of subsection 1 of this  
31 section.

32 5. The commissioner shall issue a formal written notice of the denial of a license application  
33 within thirty days of the decision to deny the application. The commissioner shall set forth in the  
34 notice of denial the specific reasons for the denial of the application. An applicant whose  
35 application is denied by the commissioner under this subsection may appeal within thirty days after  
36 receipt of the written notice of the denial under chapter 536.

37 6. The initial license term shall begin on the day the application is approved. The license  
38 shall expire on December thirty-first of the year in which the license term began unless the initial  
39 license date is between November first and December thirty-first, in which instance the initial

1 license term shall run through December thirty-first of the following year.

2 361.945. 1. A license under sections 361.900 to 361.1035 shall be renewed annually. An  
3 annual renewal fee to be determined by the commissioner shall be paid no more than sixty days  
4 before the license expiration. The renewal term shall be for a period of one year and shall begin on  
5 January first of each year after the initial license term and shall expire on December thirty-first of  
6 the year the renewal term begins.

7 2. A licensee shall submit a renewal report with the renewal fee, in a form and in a medium  
8 prescribed by the commissioner. The renewal report shall state or contain a description of each  
9 material change in information submitted by the licensee in its original license application that has  
10 not been reported to the commissioner.

11 3. The commissioner for good cause may grant an extension of the renewal date.

12 4. The commissioner shall be authorized to utilize NMLS to process license renewals  
13 provided that such functionality is consistent with this section.

14 361.948. 1. If a licensee does not continue to meet the qualifications or satisfy the  
15 requirements that apply to an applicant for a new money transmission license, the commissioner  
16 may suspend or revoke the licensee's license in accordance with the procedures established under  
17 sections 361.900 to 361.1035 or other applicable state law for such suspension or revocation.

18 2. An applicant for a money transmission license shall demonstrate that it meets or will  
19 meet, and a money transmission licensee shall at all times meet, the requirements in sections  
20 361.999, 361.1002, and 361.1005.

21 361.951. 1. Any person, or group of persons acting in concert, seeking to acquire control of  
22 a licensee shall obtain the written approval of the commissioner prior to acquiring control. An  
23 individual is not deemed to acquire control of a licensee and is not subject to the acquisition of  
24 control provisions when that individual becomes a key individual in the ordinary course of business.

25 2. A person, or group of persons acting in concert, seeking to acquire control of a licensee  
26 shall, in cooperation with the licensee:

27 (1) Submit an application in a form and in a medium prescribed by the commissioner; and

28 (2) Submit a nonrefundable fee to be determined by the commissioner with the request for  
29 approval.

30 3. Upon request, the commissioner may permit a licensee or a person, or group of persons  
31 acting in concert, to submit some or all information required by the commissioner under subdivision  
32 (1) of subsection 2 of this section without using NMLS.

33 4. The application required under subdivision (1) of subsection 2 of this section shall  
34 include information required under section 361.939 for any new key individuals that have not  
35 previously completed the requirements of section 361.939 for a licensee.

36 5. When an application for acquisition of control under this section appears to include all the  
37 items and address all of the matters that are required, the application shall be considered complete.  
38 The commissioner shall promptly notify the applicant in a record of the date on which the  
39 application was determined to be complete, and:

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

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

4       (a) The application is approved; and

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

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

8       6. A determination by the commissioner that an application is complete and is accepted for  
9 processing means only that the application, on its face, appears to include all of the items and  
10 address all of the matters that are required, and is not an assessment of the substance of the  
11 application or of the sufficiency of the information provided.

12       7. If an application is filed and considered complete under subsection 5 of this section, the  
13 commissioner shall investigate the financial condition and responsibility, financial and business  
14 experience, character, and general fitness of the person, or group of persons acting in concert,  
15 seeking to acquire control. The commissioner shall approve an acquisition of control under this  
16 section if the commissioner finds that all of the following conditions have been fulfilled:

17       (1) The requirements of subsections 2 and 4 of this section have been met, as applicable;  
18 and

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

25       8. If an applicant avails itself or is otherwise subject to a multistate licensing process:

26       (1) The commissioner is authorized to accept the investigation results of a lead investigative  
27 state for the purpose of subsection 7 of this section if the lead investigative state has sufficient  
28 staffing, expertise, and minimum standards; or

29       (2) If this state is a lead investigative state, the commissioner is authorized to investigate the  
30 applicant under subsection 7 of this section and the time frames established by agreement through  
31 the multistate licensing process.

32       9. The commissioner shall issue a formal written notice of the denial of an application to  
33 acquire control within thirty days of the decision to deny the application. The commissioner shall  
34 set forth in the notice of denial the specific reasons for the denial of the application. An applicant  
35 whose application is denied by the commissioner under this subsection may appeal within thirty  
36 days after receipt of the written notice of the denial under chapter 536.

37       10. The requirements of subsections 1 and 2 of this section shall not apply to any of the  
38 following:

39       (1) A person that acts as a proxy for the sole purpose of voting at a designated meeting of

1 the shareholders or holders of voting shares or voting interests of a licensee or a person in control of  
2 a licensee;

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

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

7 (4) A person that is exempt under subsection 7 of section 361.909;

8 (5) A person that the commissioner determines is not subject to subsection 1 of this section  
9 based on the public interest;

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

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

13 11. Persons in subdivisions (2), (3), (4), (6), and (7) of subsection 10 of this section in  
14 cooperation with the licensee shall notify the commissioner within fifteen days after the acquisition  
15 of control.

16 12. (1) The requirements of subsections 1 and 2 of this section shall not apply to a person  
17 that has complied with and received approval to engage in money transmission under sections  
18 361.900 to 361.1035 or was identified as a person in control in a prior application filed with and  
19 approved by the commissioner or by another state under a multistate licensing process, provided  
20 that:

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

24 (b) If the person is a licensee, the person is well managed and has received at least a  
25 satisfactory rating for compliance at its most recent examination by another state if such rating was  
26 given;

27 (c) The licensee to be acquired is projected to meet the requirements of sections 361.999,  
28 361.1002, and 361.1005 after the acquisition of control is completed, and if the person acquiring  
29 control is a licensee, that licensee is also projected to meet the requirements of sections 361.999,  
30 361.1002, and 361.1005 after the acquisition of control is completed;

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

35 (e) The person provides notice of the acquisition in cooperation with the licensee and attests  
36 to paragraphs (a) to (d) of this subdivision in a form and in a medium prescribed by the  
37 commissioner.

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



1        13. Before filing an application for approval to acquire control of a licensee, a person may  
2 request in writing a determination from the commissioner as to whether the person would be  
3 considered a person in control of a licensee upon consummation of a proposed transaction. If the  
4 commissioner determines that the person would not be a person in control of a licensee, the  
5 proposed person and transaction is not subject to the requirements of subsections 1 and 2 of this  
6 subsection.

7        14. If a multistate licensing process includes a determination under subsection 13 of this  
8 section and an applicant avails itself or is otherwise subject to the multistate licensing process:

9            (1) The commissioner is authorized to accept the control determination of a lead  
10 investigative state with sufficient staffing, expertise, and minimum standards for the purpose of  
11 subsection 13 of this section; or

12           (2) If this state is a lead investigative state, the commissioner is authorized to investigate the  
13 applicant under subsection 13 of this section and the time frames established by agreement through  
14 the multistate licensing process.

15        361.954. 1. A licensee adding or replacing any key individual shall:

16           (1) Provide notice in a manner prescribed by the commissioner within fifteen days after the  
17 effective date of the key individual's appointment; and

18           (2) Provide information as required by section 361.939 within forty-five days of the  
19 effective date.

20        2. Within ninety days of the date on which the notice provided under subsection 1 of this  
21 section was determined to be complete, the commissioner may issue a notice of disapproval of a key  
22 individual if the competence, experience, character, or integrity of the individual would not be in the  
23 best interests of the public or the customers of the licensee to permit the individual to be a key  
24 individual of such licensee.

25        3. A notice of disapproval shall contain a statement of the basis for disapproval and shall be  
26 sent to the licensee and the disapproved individual. A licensee may appeal a notice of disapproval  
27 under chapter 536 within thirty days after receipt of such notice of disapproval.

28        4. If the notice provided under subsection 1 of this section is not disapproved within ninety  
29 days after the date on which the notice was determined to be complete, the key individual is deemed  
30 approved.

31        5. If a multistate licensing process includes a key individual notice review and disapproval  
32 process under this section and the licensee avails itself or is otherwise subject to the multistate  
33 licensing process:

34           (1) The commissioner is authorized to accept the determination of another state if the  
35 investigating state has sufficient staffing, expertise, and minimum standards for the purpose of this  
36 section; or

37           (2) If this state is a lead investigative state, the commissioner is authorized to investigate the  
38 applicant under subsection 2 of this section and the time frames established by agreement through  
39 the multistate licensing process.

1       361.957. 1. Each licensee shall submit a report of condition within forty days of the end of  
2 the calendar quarter or within any extended time as the commissioner may prescribe.

3       2. The report of condition shall include:

4       (1) Financial information at the licensee level;

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

7       (3) Permissible investments report;

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

10       (5) Any other information the commissioner reasonably requires with respect to the  
11 licensee. The commissioner is authorized to utilize NMLS for the submission of the report required  
12 by subsection 1 of this section and is authorized to update as necessary the requirements of this  
13 section to carry out the purposes of sections 361.900 to 361.1035 and maintain consistency with  
14 NMLS reporting.

15       3. The information required under subdivision (4) of subsection 2 of this section shall be  
16 included only in a report of condition submitted within forty-five days of the end of the fourth  
17 calendar quarter.

18       361.960. 1. Each licensee shall, within ninety days after the end of each fiscal year or  
19 within any extended time as the commissioner may prescribe, file with the commissioner:

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

22       (2) Any other information as the commissioner may reasonably require.

23       2. The audited financial statement shall be prepared by an independent certified public  
24 accountant or independent public accountant who is satisfactory to the commissioner.

25       3. The audited financial statements shall include or be accompanied by a certificate of  
26 opinion of the independent certified public accountant or independent public accountant that is  
27 satisfactory in form and content to the commissioner. If the certificate or opinion is qualified, the  
28 commissioner may order the licensee to take any action as the commissioner may find necessary to  
29 enable the independent certified public accountant or independent public accountant to remove the  
30 qualification.

31       361.963. 1. Each licensee shall submit a report of authorized delegates within forty-five  
32 days of the end of the calendar quarter. The commissioner is authorized to utilize NMLS for the  
33 submission of the report required under this section, provided that such functionality is consistent  
34 with the requirements of this section.

35       2. The authorized delegate report shall include, at a minimum, each authorized delegate's:

36       (1) Company legal name;

37       (2) Taxpayer employer identification number;

38       (3) Principal provider identifier;

39       (4) Physical address, if any;

- 1       (5) Mailing address;
- 2       (6) Any business conducted in other states;
- 3       (7) Any fictitious or trade name;
- 4       (8) Contact person name, phone number, and email;
- 5       (9) Start date as licensee's authorized delegate;
- 6       (10) End date acting as licensee's authorized delegate, if applicable; and
- 7       (11) Any other information the commissioner reasonably requires with respect to the
- 8 authorized delegate.

9       361.966. 1. A licensee shall file a report with the commissioner within one business day  
 10 after the licensee has reason to know of the occurrence of any of the following events:

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

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

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

19       2. A licensee shall notify the commissioner within three business days after the licensee has  
 20 reason to know that:

21       (1) The licensee, or a key individual or person in control of the licensee, has been convicted  
 22 of or pled guilty or nolo contendere to a felony involving an act of fraud, dishonesty, or a breach of  
 23 trust or money laundering; or

24       (2) An authorized delegate has been convicted of or pled guilty or nolo contendere to a  
 25 felony involving an act of fraud, dishonesty, or a breach of trust or money laundering.

26       361.969. A licensee and an authorized delegate shall file all reports required by federal  
 27 currency reporting, record keeping, and suspicious activity reporting requirements as set forth in the  
 28 Bank Secrecy Act and other federal and state laws pertaining to money laundering. The timely  
 29 filing of a complete and accurate report required under this section with the appropriate federal  
 30 agency is deemed compliant with the requirements of this section.

31       361.972. 1. A licensee shall maintain the following records for determining its compliance  
 32 with sections 361.900 to 361.1035 for at least three years:

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

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

36       (3) Bank statements and bank reconciliation records;

37       (4) Records of outstanding money transmission obligations;

38       (5) Records of each outstanding money transmission obligation paid within the three-year  
 39 period;

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

3 (7) Any other records the commissioner reasonably requires by rule.

4 2. The items specified in subsection 1 of this section may be maintained in any form of  
5 record.

6 3. Records specified in subsection 1 of this section may be maintained outside this state if  
7 the records are made accessible to the commissioner on seven business-days' notice that is sent in a  
8 record.

9 4. All records maintained by the licensee as required in subsections 1 to 3 of this section are  
10 open to inspection by the commissioner under subsection 1 of section 361.921.

11 361.975. 1. As used in this section, "remit" means to make direct payments of money to a  
12 licensee or its representative authorized to receive money or to deposit money in a bank in an  
13 account specified by the licensee.

14 2. Before a licensee is authorized to conduct business through an authorized delegate, or  
15 allows a person to act as the licensee's authorized delegate, the licensee shall:

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

18 (2) Enter into a written contract that complies with subsection 4 of this section; and

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

22 3. An authorized delegate shall operate in full compliance with sections 361.900 to  
23 361.1035.

24 4. The written contract required under subsection 2 of this section shall be signed by the  
25 licensee and the authorized delegate and, at a minimum, shall:

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

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

30 (3) Require the authorized delegate to agree to fully comply with all applicable state and  
31 federal laws, rules, and regulations pertaining to money transmission, including sections 361.900 to  
32 361.1035 and regulations implementing sections 361.900 to 361.1035, relevant provisions of the  
33 Bank Secrecy Act, and the USA PATRIOT Act;

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

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

38 (6) Require the authorized delegate to prepare and maintain records as required by sections  
39 361.900 to 361.1035 or regulations implementing sections 361.900 to 361.1035, or as reasonably

1 requested by the commissioner;

2 (7) Acknowledge that the authorized delegate consents to examination or investigation by  
3 the commissioner;

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

7 (9) Acknowledge receipt of the written policies and procedures required under subdivision  
8 (1) of subsection 1 of this section.

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

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

21 7. An authorized delegate shall not use a subdelegate to conduct money transmission on  
22 behalf of a licensee.

23 361.978. A person shall not engage in the business of money transmission on behalf of a  
24 person not licensed under sections 361.900 to 361.1035 or not exempt under sections 361.909 and  
25 361.912. A person that engages in such activity provides money transmission to the same extent as  
26 if the person were a licensee and shall be jointly and severally liable with the unlicensed or  
27 nonexempt person.

28 361.981. 1. The circuit court in an action brought by a licensee shall have jurisdiction to  
29 grant appropriate equitable or legal relief, including without limitation prohibiting the authorized  
30 delegate from directly or indirectly acting as an authorized delegate for any licensee in this state and  
31 the payment of restitution, damages, or other monetary relief, if the circuit court finds that an  
32 authorized delegate failed to remit money in accordance with the written contract required by  
33 subsection 2 of section 361.1275 or as otherwise directed by the licensee or required by law.

34 2. If the circuit court issues an order prohibiting a person from acting as an authorized  
35 delegate for any licensee under subsection 1 of this section, the licensee that brought the action shall  
36 report the order to the commissioner within thirty days and shall report the order through NMLS  
37 within ninety days.

38 3. An authorized delegate who holds money in trust for the benefit of a licensee and  
39 knowingly fails to remit more than one thousand dollars of such money is guilty of a class E felony.

1       4. An authorized delegate who holds money in trust for the benefit of a licensee and  
2 knowingly fails to remit no more than one thousand dollars of such money is guilty of a class A  
3 misdemeanor.

4       361.984. 1. Every licensee shall forward all money received for transmission in accordance  
5 with the terms of the agreement between the licensee and the sender unless the licensee has a  
6 reasonable belief or a reasonable basis to believe that the sender may be a victim of fraud or that a  
7 crime or violation of law, rule, or regulation has occurred, is occurring, or may occur.

8       2. If a licensee fails to forward money received for transmission in accordance with this  
9 section, the licensee shall respond to inquiries by the sender with the reason for the failure unless  
10 providing a response would violate a state or federal law, rule, or regulation.

11       361.987. 1. This section shall not apply to:

12       (1) Money received for transmission subject to the federal Remittance Rule, 12 C.F.R. Part  
13 1005, Subpart B, as amended or recodified from time to time; or

14       (2) Money received for transmission under a written agreement between the licensee and  
15 payee to process payments for goods or services provided by the payee.

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

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

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

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

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

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

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

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

35       361.990. 1. This section shall not apply to:

36       (1) Money received for transmission subject to the federal Remittance Rule, 12 C.F.R. Part  
37 1005, Subpart B, as amended or recodified from time to time;

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

1       (3) Money received for transmission under a written agreement between the licensee and  
 2 payee to process payments for goods or services provided by the payee; or

3       (4) Payroll processing services.

4       2. For purposes of this section, "receipt" means a paper receipt, electronic record, or other  
 5 written confirmation. For a transaction conducted in person, the receipt may be provided  
 6 electronically if the sender requests or agrees to receive an electronic receipt. For a transaction  
 7 conducted electronically or by phone, a receipt may be provided electronically. All electronic  
 8 receipts shall be provided in a retainable form.

9       3. (1) Every licensee or its authorized delegate shall provide the sender a receipt for money  
 10 received for transmission. The receipt shall contain the following information, as applicable:

11       (a) The name of the sender;

12       (b) The name of the designated recipient;

13       (c) The date of the transaction;

14       (d) The unique transaction or identification number;

15       (e) The name of the licensee, NMLS unique identifier, the licensee's business address, and  
 16 the licensee's customer service telephone number;

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

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

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

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

23       361.996. 1. A licensee that provides payroll processing services shall:

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

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

27       2. Subsection 1 of this section shall not apply to a licensee providing payroll processing  
 28 services if the licensee's client designates the intended recipients to the licensee and is responsible  
 29 for providing the disclosures required by subdivision (2) of subsection 1 of this section.

30       361.999. 1. A licensee under sections 361.900 to 361.1035 shall maintain at all times a  
 31 tangible net worth of the greater of one hundred thousand dollars or three percent of total assets for  
 32 the first one hundred million dollars, two percent of additional assets for one hundred million dollars  
 33 to one billion dollars, and one-half of one percent of additional assets for over one billion dollars.

34       2. Tangible net worth shall be demonstrated at initial application by the applicant's most  
 35 recent audited or unaudited financial statements under subdivision (6) of subsection 2 of section  
 36 361.936.

37       361.1002. 1. An applicant for a money transmission license shall provide, and a licensee at  
 38 all times shall maintain, security consisting of a surety bond in a form satisfactory to the  
 39 commissioner.

1        2. The amount of the required security shall be:

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

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

7        3. A licensee that maintains a bond in the maximum amount provided for in subsection 2 of  
8 this section shall not be required to calculate its average daily money transmission liability in this  
9 state for purposes of this section.

10        361.1005. 1. A licensee shall maintain at all times permissible investments that have a  
11 market value computed in accordance with United States generally accepted accounting principles  
12 of not less than the aggregate amount of all of its outstanding money transmission obligations.

13        2. Except for permissible investments enumerated in subsection 1 of section 361.1008, the  
14 commissioner, with respect to any licensee, may by rule limit the extent to which a specific  
15 investment maintained by a licensee within a class of permissible investments may be considered a  
16 permissible investment if the specific investment represents undue risk to customers not reflected in  
17 the market value of investments.

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

28        4. Upon the establishment of a statutory trust in accordance with subsection 3 of this section  
29 or when any funds are drawn on a letter of credit under subdivision (4) of subsection 1 of section  
30 361.1008, the commissioner shall notify the applicable regulator of each state in which the licensee  
31 is licensed to engage in money transmission, if any, of the establishment of the trust or the funds  
32 drawn on the letter of credit, as applicable. Notice shall be deemed satisfied if performed under a  
33 multistate agreement or through NMLS. Funds drawn on a letter of credit, and any other  
34 permissible investments held in trust for the benefit of the purchasers and holders of the licensee's  
35 outstanding money transmission obligations, are deemed held in trust for the benefit of such  
36 purchasers and holders on a pro rata and equitable basis in accordance with statutes under which  
37 permissible investments are required to be held in this state, and other states, as applicable. Any  
38 statutory trust established under this subsection shall be terminated upon extinguishment of all of  
39 the licensee's outstanding money transmission obligations.



1       5. The commissioner by rule or by order may allow other types of investments that the  
2 commissioner determines are of sufficient liquidity and quality to be a permissible investment. The  
3 commissioner is authorized to participate in efforts with other state regulators to determine that  
4 other types of investments are of sufficient liquidity and quality to be a permissible investment.

5       361.1008. 1. The following investments are permissible under section 361.1005:

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

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

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

20       (4) One hundred percent of the surety bond provided for under section 361.1002 that  
21 exceeds the average daily money transmission liability in this state; and

22       (5) The full drawable amount of an irrevocable standby letter of credit for which the stated  
23 beneficiary is the commissioner that stipulates that the beneficiary need draw only a sight draft  
24 under the letter of credit and present it to obtain funds up to the letter of credit amount within seven  
25 days of presentation of the items required by paragraph (d) of this subdivision. The letter of credit  
26 shall:

27       (a) Be issued by a federally insured depository financial institution, a foreign bank that is  
28 authorized under federal law to maintain a federal agency or federal branch office in a state or states,  
29 or a foreign bank that is authorized under state law to maintain a branch in a state that:

30       a. Bears an eligible rating or whose parent company bears an eligible rating; and

31       b. Is regulated, supervised, and examined by United States federal or state authorities having  
32 regulatory authority over banks, credit unions, and trust companies;

33       (b) Be irrevocable, unconditional, and indicate that it is not subject to any condition or  
34 qualifications outside of the letter of credit;

35       (c) Not contain references to any other agreements, documents or entities, or otherwise  
36 provide for any security interest in the licensee; and

37       (d) Contain an issue date and expiration date, and expressly provide for automatic extension,  
38 without a written amendment, for an additional period of one year from the present or each future  
39 expiration date unless the issuer of the letter of credit notifies the commissioner in writing by

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

3 2. In the event of any notice of expiration or nonextension of a letter of credit issued under  
4 paragraph (d) of subdivision (4) of subsection 1 of this section, the licensee shall be required to  
5 demonstrate to the satisfaction of the commissioner, fifteen days prior to expiration, that the licensee  
6 maintains and will maintain permissible investments in accordance with subsection 1 of section  
7 361.1005 upon the expiration of the letter of credit. If the licensee is not able to do so, the  
8 commissioner may draw on the letter of credit in an amount up to the amount necessary to meet the  
9 licensee's requirements to maintain permissible investments in accordance with subsection 1 of  
10 section 361.1005. Any such draw shall be offset against the licensee's outstanding money  
11 transmission obligations. The drawn funds shall be held in trust by the commissioner or the  
12 commissioner's designated agent, to the extent authorized by law, as agent for the benefit of the  
13 purchasers and holders of the licensee's outstanding money transmission obligations.

14 3. The letter of credit shall provide that the issuer of the letter of credit will honor, at sight, a  
15 presentation made by the beneficiary to the issuer of the following documents on or prior to the  
16 expiration date of the letter of credit:

17 (1) The original letter of credit, including any amendments; and

18 (2) A written statement from the beneficiary stating that any of the following events have  
19 occurred:

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

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

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

28 (d) The beneficiary has received notice of expiration or nonextension of a letter of credit  
29 and the licensee failed to demonstrate to the satisfaction of the beneficiary that the licensee will  
30 maintain permissible investments in accordance with subsection 1 of section 361.1005 upon the  
31 expiration or nonextension of the letter of credit.

32 4. The commissioner may designate an agent to serve on the commissioner's behalf as  
33 beneficiary to a letter of credit so long as the agent and letter of credit meet requirements established  
34 by the commissioner. The commissioner's agent may serve as agent for multiple licensing  
35 authorities for a single irrevocable letter of credit if the proceeds of the drawable amount for the  
36 purposes of this subsection are assigned to the commissioner.

37 5. The commissioner is authorized to participate in multistate processes designed to  
38 facilitate the issuance and administration of letters of credit including, but not limited to, services  
39 provided by the NMLS, State Regulatory Registry LLC, or other third parties.

1       6. Unless permitted by the commissioner by rule or by order to exceed the limit as set forth  
2 herein, the following investments are permissible under section 361.1005 to the extent specified:

3       (1) Receivables that are payable to a licensee from its authorized delegates in the ordinary  
4 course of business that are less than seven days old, up to fifty percent of the aggregate value of the  
5 licensee's total permissible investments. Of the receivables permissible under this subdivision,  
6 receivables that are payable to a licensee from a single authorized delegate in the ordinary course of  
7 business shall not exceed ten percent of the aggregate value of the licensee's total permissible  
8 investments;

9       (2) The following investments, up to twenty percent per category and combined up to fifty  
10 percent of the aggregate value of the licensee's total permissible investments:

11       (a) A short-term investment bearing an eligible rating. For purposes of this paragraph,  
12 "short-term" means up to six months;

13       (b) Commercial paper bearing an eligible rating;

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

15       (d) United States triparty repurchase agreements collateralized at one hundred percent or  
16 more with United States government or agency securities, municipal bonds, or other securities  
17 bearing an eligible rating;

18       (e) Money market mutual funds rated less than "AAA" and equal to or higher than "A-" by  
19 Standard & Poor's, or the equivalent from any other eligible rating service; and

20       (f) A mutual fund or other investment fund composed solely and exclusively of one or more  
21 permissible investments listed in subdivisions (1) to (3) of subsection 1 of this section; and

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

26       (a) Has an eligible rating;

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

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

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

32       361.1011. 1. The commissioner may suspend or revoke a license or order a licensee to  
33 revoke the designation of an authorized delegate if:

34       (1) The licensee violates sections 361.900 to 361.1035 or a rule adopted or an order issued  
35 under sections 361.900 to 361.1035;

36       (2) The licensee does not cooperate with an examination or investigation by the  
37 commissioner;

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

39       (4) An authorized delegate is convicted of or enters a plea of guilty or nolo contendere to a

felony involving an act of fraud, dishonesty, or a breach of trust or money laundering or violates a rule adopted or an order issued under sections 361.900 to 361.1035 as a result of the licensee's willful misconduct or willful blindness;

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

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

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

(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 sections 361.900 to 361.1035.

2. 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 sections 361.900 to 361.1035, and the previous conduct of the person involved.

361.1014. 1. The commissioner may issue an order suspending or revoking the designation of an authorized delegate, if the commissioner finds that:

(1) The authorized delegate violated sections 361.900 to 361.1035 or a rule adopted or an order issued under sections 361.900 to 361.1035;

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

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

(4) The authorized delegate has been convicted of or pled guilty or nolo contendere to a felony involving an act of fraud, dishonesty, or a breach of trust or money laundering;

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

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

2. 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 transmission, the magnitude of the loss, the gravity of the violation of sections 361.900 to 361.1035 or a rule adopted or order issued under sections 361.900 to 361.1035, and the previous conduct of the authorized delegate.

3. An authorized delegate may apply for relief from a suspension or revocation of designation as an authorized delegate according to procedures prescribed by the commissioner.

361.1017. 1. If the commissioner determines that a violation of sections 361.900 to

1 361.1035 or of a rule adopted or an order issued under sections 361.900 to 361.1035 by a licensee or  
2 authorized delegate is likely to cause immediate and irreparable harm to the licensee, its customers,  
3 or the public as a result of the violation, or cause insolvency or significant dissipation of assets of  
4 the licensee, the commissioner may issue an order requiring the licensee or authorized delegate to  
5 cease and desist from the violation. The order becomes effective upon service to the licensee or  
6 authorized delegate.

7 2. The commissioner may issue an order against a licensee to cease and desist from  
8 providing money transmission through an authorized delegate that is the subject of a separate order  
9 by the commissioner.

10 3. An order to cease and desist remains effective and enforceable pending the completion of  
11 an administrative proceeding under chapter 536.

12 4. A licensee or an authorized delegate that is served with an order to cease and desist may  
13 petition the circuit court with jurisdiction for a judicial order setting aside, limiting, or suspending  
14 the enforcement, operation, or effectiveness of the order pending the completion of an  
15 administrative proceeding under chapter 536.

16 5. An order to cease and desist expires unless the commissioner commences an  
17 administrative proceeding under chapter 536 within ten days after it is issued.

18 361.1020. The commissioner may enter into a consent order at any time with a person to  
19 resolve a matter arising under sections 361.900 to 361.1035 or a rule adopted or order issued under  
20 sections 361.900 to 361.1035. A consent order shall be signed by the person to whom it is issued or  
21 by the person's authorized representative and shall indicate agreement with the terms contained in  
22 the order. A consent order may provide that it does not constitute an admission by a person that  
23 sections 361.900 to 361.1035 or a rule adopted or an order issued under sections 361.900 to  
24 361.1035 has been violated.

25 361.1023. 1. A person that intentionally makes a false statement, misrepresentation, or false  
26 certification in a record filed or required to be maintained under sections 361.900 to 361.1035 or  
27 that intentionally makes a false entry or omits a material entry in such a record is guilty of a class E  
28 felony.

29 2. A person that knowingly engages in an activity for which a license is required under  
30 sections 361.900 to 361.1035 without being licensed under sections 361.900 to 361.1035 and who  
31 receives more than five hundred dollars in compensation within a thirty-day period for this activity  
32 is guilty of a class E felony.

33 3. A person that knowingly engages in an activity for which a license is required under  
34 sections 361.900 to 361.1035 without being licensed under sections 361.900 to 361.1035 and who  
35 receives no more than five hundred dollars in compensation within a thirty-day period for this  
36 activity is guilty of a class A misdemeanor.

37 361.1026. The commissioner may assess a civil penalty against a person that violates  
38 sections 361.900 to 361.1035 or a rule adopted or an order issued under sections 361.900 to  
39 361.1035 in an amount not to exceed one thousand dollars per day for each day the violation is

1 outstanding, plus this state's costs and expenses for the investigation and prosecution of the matter,  
 2 including reasonable attorney's fees.

3 361.1029. 1. If the commissioner has reason to believe that a person has violated or is  
 4 violating section 361.930, the commissioner may issue an order to show cause why an order to cease  
 5 and desist shall not be issued requiring that the person cease and desist from the violation of section  
 6 361.930.

7 2. In an emergency, the commissioner may petition the circuit court with jurisdiction for the  
 8 issuance of a temporary restraining order under the rules of civil procedure.

9 3. An order to cease and desist becomes effective upon service to the person.

10 4. An order to cease and desist remains effective and enforceable pending the completion of  
 11 an administrative proceeding under chapter 536.

12 5. A person that is served with an order to cease and desist for violating section 361.930  
 13 may petition the circuit court with jurisdiction for a judicial order setting aside, limiting, or  
 14 suspending the enforcement, operation, or effectiveness of the order pending the completion of an  
 15 administrative proceeding under chapter 536.

16 6. An order to cease and desist expires unless the commissioner commences an  
 17 administrative proceeding within ten days after it is issued.

18 361.1032. In applying and construing sections 361.900 to 361.1035, consideration shall be  
 19 given to the need to promote uniformity of the law with respect to its subject matter among states  
 20 that enact it.

21 361.1035. 1. A person licensed in this state to engage in the business of money transmission  
 22 shall not be subject to the provisions of sections 361.900 to 361.1035 to the extent that they conflict  
 23 with current law or establish new requirements not imposed under current law, until such time as the  
 24 licensee renews the licensee's current license.

25 2. Notwithstanding subsection 1 of this section, a licensee shall only be required to amend  
 26 its authorized delegate contracts for contracts entered into or amended after the effective date or the  
 27 completion of any transition period contemplated under subsection 1 of this section. Nothing herein  
 28 shall be construed as limiting an authorized delegate's obligations to operate in full compliance with  
 29 sections 361.900 to 361.1035 as required by subsection 3 of section 361.975."; and

30  
 31 Further amend said bill, Page 17, Section 387.435, Line 9, by inserting after all of said section and  
 32 line the following:

33  
 34 "427.300. 1. This section shall be known, and may be cited as, the "Commercial Financing  
 35 Disclosure Law".

36 2. For purposes of this section, the following terms mean:

37 (1) "Account":

38 (a) Includes:

39 a. A right to payment of a monetary obligation, whether or not earned by performance, for

1 one of the following:

2 (i) Property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed  
3 of;

4 (ii) Services rendered or to be rendered;

5 (iii) A policy of insurance issued or to be issued;

6 (iv) A secondary obligation incurred or to be incurred;

7 (v) Energy provided or to be provided;

8 (vi) The use or hire of a vessel under a charter or other contract;

9 (vii) Arising out of the use of a credit or charge card or information contained on or for use  
10 with the card; or

11 (viii) As winnings in a lottery or other game of chance operated or sponsored by a state,  
12 governmental unit of a state, or person licensed or authorized to operate the game by a state or  
13 governmental unit of a state; and

14 b. Health care insurance receivables; and

15 (b) Shall not include:

16 a. Rights to payment evidenced by chattel paper or an instrument;

17 b. Commercial tort claims;

18 c. Deposit accounts;

19 d. Investment property;

20 e. Letter-of-credit rights or letters of credit; or

21 f. Rights to payment for moneys or funds advanced or sold, other than rights arising out of  
22 the use of a credit or charge card or information contained on or for use with the card;

23 (2) "Accounts receivable purchase transaction", any transaction in which the business  
24 forwards or otherwise sells to the provider all or a portion of the business's accounts or payment  
25 intangibles at a discount to their expected value. For purposes of this section, the provider's  
26 characterization of an accounts receivable purchase transaction as a purchase is conclusive that the  
27 accounts receivable purchase transaction is not a loan or a transaction for the use, forbearance, or  
28 detention of moneys;

29 (3) "Broker", any person who, for compensation or the expectation of compensation, obtains  
30 a commercial financing product or an offer for a commercial financing product from a third party  
31 that would, if executed, be binding upon that third party and communicates that offer to a business  
32 located in this state. The term "broker" excludes a "provider", or any individual or entity whose  
33 compensation is not based or dependent upon the terms of the specific commercial financing  
34 product obtained or offered;

35 (4) "Business", an individual or group of individuals, sole proprietorship, corporation,  
36 limited liability company, trust, estate, cooperative, association, or limited or general partnership  
37 engaged in a business activity;

38 (5) "Business purpose transaction", any transaction where the proceeds are provided to a  
39 business or are intended to be used to carry on a business and not for personal, family, or household

1 purposes. For purposes of determining whether a transaction is a business purpose transaction, the  
 2 provider may rely on any written statement of intended purpose signed by the business. The  
 3 statement may be a separate statement or may be contained in an application, agreement, or other  
 4 document signed by the business or the business owner or owners;

5 (6) "Commercial financing product", any commercial loan, accounts receivable purchase  
 6 transaction, commercial open-end credit plan, or each to the extent the transaction is a business  
 7 purpose transaction;

8 (7) "Commercial loan", a loan to a business, whether secured or unsecured;

9 (8) "Commercial open-end credit plan", commercial financing extended by any provider  
 10 under a plan in which:

11 (a) The provider reasonably contemplates repeat transactions; and

12 (b) The amount of financing that may be extended to the business during the term of the  
 13 plan, up to any limit set by the provider, is generally made available to the extent that any  
 14 outstanding balance is repaid;

15 (9) "Depository institution", any of the following:

16 (a) A bank, trust company, or industrial loan company doing business under the authority of,  
 17 or in accordance with, a license, certificate, or charter issued by the United States, this state, or any  
 18 other state, district, territory, or commonwealth of the United States that is authorized to transact  
 19 business in this state;

20 (b) A federally chartered savings and loan association, federal savings bank, or federal  
 21 credit union that is authorized to transact business in this state; and

22 (c) A savings and loan association, savings bank, or credit union organized under the laws  
 23 of this or any other state that is authorized to transact business in this state;

24 (10) "General intangible", any personal property, including things in action, other than  
 25 accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments,  
 26 investment property, letter-of-credit rights, letters of credit, moneys, and oil, gas, or other minerals  
 27 before extraction. "General intangible" also includes payment intangibles and software;

28 (11) "Payment intangible", a general intangible under which the account debtor's principal  
 29 obligation is a monetary obligation;

30 (12) "Provider", a person who consummates more than five commercial financing products  
 31 to a business located in this state in any calendar year. "Provider" also includes a person who enters  
 32 into a written agreement with a depository institution to arrange for the extension of a commercial  
 33 financing product by the depository institution to a business via an online lending platform  
 34 administered by the person. The fact that a provider extends a specific offer for a commercial  
 35 financing product on behalf of a depository institution shall not be construed to mean that the  
 36 provider engaged in lending or financing or originated such loan or financing.

37 3. (1) A provider who consummates a commercial financing product shall disclose the  
 38 terms of the commercial financing product as required by this section. The disclosures shall be  
 39 provided at or before consummation of the transaction. Only one disclosure is required for each



1 commercial financing product, and a disclosure is not required as a result of the modification,  
2 forbearance, or change to a consummated commercial financing product.

3 (2) A provider shall disclose the following in connection with each commercial financing  
4 product:

5 (a) The total amount of funds provided to the business under the terms of the commercial  
6 financing product. This disclosure shall be labeled "Total Amount of Funds Provided";

7 (b) The total amount of funds disbursed to the business under the terms of the commercial  
8 financing product, if less than the total amount of funds provided, as a result of any fees deducted or  
9 withheld at disbursement and any amount paid to a third party on behalf of the business. This  
10 disclosure shall be labeled "Total Amount of Funds Disbursed";

11 (c) The total amount to be paid to the provider pursuant to the commercial financing product  
12 agreement. This disclosure shall be labeled "Total of Payments";

13 (d) The total dollar cost of the commercial financing product under the terms of the  
14 agreement, derived by subtracting the total amount of funds provided from the total of payments.  
15 This calculation shall include any fees or charges deducted by the provider from the "Total Amount  
16 of Funds Provided". This disclosure shall be labeled "Total Dollar Cost of Financing";

17 (e) The manner, frequency, and amount of each payment. This disclosure shall be labeled  
18 "Payments". If the payments may vary, the provider shall instead disclose the manner, frequency,  
19 and the estimated amount of the initial payment labeled "Estimated Payments", and the commercial  
20 financing product agreement shall include a description of the methodology for calculating any  
21 variable payment and the circumstances when payments may vary; and

22 (f) A statement of whether there are any costs or discounts associated with prepayment of  
23 the commercial financing product, including a reference to the paragraph in the agreement that  
24 creates the contractual rights of the parties related to prepayment. This disclosure shall be labeled  
25 "Prepayment".

26 4. This section shall not apply to the following:

27 (1) A provider that is a depository institution or a subsidiary or service corporation that is:

28 (a) Owned and controlled by a depository institution; and

29 (b) Regulated by a federal banking agency;

30 (2) A provider that is a lender regulated under the federal Farm Credit Act, 12 U.S.C. Sec.  
31 2001 et seq.;

32 (3) A commercial financing product that is:

33 (a) Secured by real property;

34 (b) A lease; or

35 (c) A purchase-money obligation that is incurred as all or part of the price of the collateral  
36 or for value given to enable the business to acquire rights in or the use of the collateral if the value is  
37 in fact so used;

38 (4) A commercial financing product in which the recipient is a motor vehicle dealer or an  
39 affiliate of such a dealer, or a vehicle rental company, or an affiliate of such a company, pursuant to

1 a commercial loan or commercial open-end credit plan of at least fifty thousand dollars or a  
2 commercial financing product offered by a person in connection with the sale or lease of products or  
3 services that such person manufactures, licenses, or distributes, or whose parent company or any of  
4 its directly or indirectly owned and controlled subsidiaries manufactures, licenses, or distributes;

5 (5) A commercial financing product that is a factoring transaction, purchase, sale, advance,  
6 or similar of accounts receivables owed to a health care provider because of a patient's personal  
7 injury treated by the health care provider;

8 (6) A provider who is licensed as a money transmitter in accordance with a license,  
9 certificate, or charter issued by this state, or any other state, district, territory, or commonwealth of  
10 the United States;

11 (7) A provider who consummates no more than five commercial financing products in this  
12 state in a twelve-month period; or

13 (8) A transaction in which the provider has an obligation to advance more than five hundred  
14 thousand dollars.

15 5. (1) No person shall engage in business as a broker for commercial financing within this  
16 state, for compensation, unless prior to conducting such business, the person has filed a registration  
17 with the division of finance within the department of commerce and insurance and has on file a  
18 good and sufficient bond as specified in this subsection. The registration shall be effective upon  
19 receipt by the division of finance of a completed registration form and the required registration fee,  
20 and shall remain effective until the time of renewal.

21 (2) After filing an initial registration form, a broker shall file, on or before January thirty-  
22 first of each year, a renewal registration form along with the required renewal registration fee.

23 (3) The broker shall pay a one-hundred-dollar registration fee upon the filing of an initial  
24 registration and a fifty-dollar renewal fee upon the filing of a renewal registration.

25 (4) The registration form required by this subsection shall include:

26 (a) The name of the broker;

27 (b) The name in which the broker is transacted if different from that stated in paragraph (a)  
28 of this subdivision;

29 (c) The address of the broker's principal office, which may be outside this state;

30 (d) Whether any officer, director, manager, operator, or principal of the broker has been  
31 convicted of a felony involving an act of fraud, dishonesty, breach of trust, or money laundering;  
32 and

33 (e) The name and address in this state of a designated agent upon whom service of process  
34 may be made.

35 (5) If information in a registration form changes or otherwise becomes inaccurate after  
36 filing, the broker shall not be required to file a further registration form prior to the time of renewal.

37 (6) Each broker shall obtain a surety bond issued by a surety company authorized to do  
38 business in this state. The amount of the bond shall be ten thousand dollars. The bond shall be in  
39 favor of the state of Missouri. Any person damaged by the broker's breach of contract or of any

obligation arising therefrom, or by any violation of this section, may bring an action against the bond to recover damages suffered. The aggregate liability of the surety shall be only for actual damages and in no event shall exceed the amount of the bond.

(7) Employees regularly employed by a broker who has complied with this subsection shall not be required to file a registration or obtain a surety bond when acting within the scope of their employment for the broker.

6. (1) Any person who violates any provision of this section shall be punished by a fine of five hundred dollars per incident, not to exceed twenty thousand dollars for all aggregated violations arising from the use of the transaction documentation or materials found to be in violation of this section. Any person who violates any provision of this section after receiving written notice of a prior violation from the attorney general shall be punished by a fine of one thousand dollars per incident, not to exceed fifty thousand dollars for all aggregated violations arising from the use of the transaction documentation or materials found to be in violation of this section.

(2) Violation of any provision of this section shall not affect the enforceability or validity of the underlying agreement.

(3) This section shall not create a private right of action against any person or other entity based upon compliance or noncompliance with its provisions.

(4) Authority to enforce compliance with this section is vested exclusively in the attorney general of this state.

7. The requirements of subsections 3 and 5 of this section shall take effect upon the earlier of:

(1) Six months after the division of finance finalizes promulgating rules, if the division intends to promulgate rules; or

(2) February 28, 2024, if the division does not promulgate rules.

8. The division of finance may promulgate rules implementing this section. If the division of finance intends to promulgate rules, it shall declare its intent to do so no later than February 28, 2024. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2023, shall be invalid and void."; and

Further amend said bill, Page 30, Section 287.920, Line 43, by inserting after all of said section and line the following:

~~"[361.700. 1. Sections 361.700 to 361.727 shall be known and may be cited as the "Sale of Checks Law".~~

~~2. For the purposes of sections 361.700 to 361.727, the following terms mean:~~

~~(1) "Check", any instrument for the transmission or payment of money and shall also include any electronic means of transmitting or paying money;~~

- 1                   (2) "Director", the director of the division of finance;  
 2                   (3) "Licensee", any person duly licensed by the director pursuant to  
 3 sections 361.700 to 361.727;  
 4                   (4) "Person", any individual, partnership, association, trust or corporation.]

5  
 6                   [361.705. 1. No person shall issue checks in this state for a consideration  
 7 without first obtaining a license from the director; provided, however, that sections  
 8 361.700 to 361.727 shall not apply to the receipt of money by an incorporated  
 9 telegraph company at any office or agency of such company for immediate  
 10 transmission by telegraph nor to any bank, trust company, savings and loan  
 11 association, credit union, or agency of the United States government.

12                   2. Any person who violates any of the provisions of sections 361.700 to  
 13 361.727 or attempts to sell or issue checks without having first obtained a license  
 14 from the director shall be deemed guilty of a class A misdemeanor.]

15  
 16                   [361.707. 1. Each application for a license pursuant to sections 361.700 to  
 17 361.727 shall be in writing and under oath to the director in such form as he may  
 18 prescribe. The application shall state the full name and business address of:

- 19                   (1) The proprietor, if the applicant is an individual;  
 20                   (2) Every member, if the applicant is a partnership or association;  
 21                   (3) The corporation and each officer and director thereof, if the applicant  
 22 is a corporation.

23                   2. Each application for a license shall be accompanied by an investigation  
 24 fee of three hundred dollars. If the license is granted the investigation fee shall be  
 25 applied to the license fee for the first year. No investigation fee shall be refunded.]

26  
 27                   [361.711. Each application for a license shall be accompanied by a  
 28 corporate surety bond in the principal sum of one hundred thousand dollars. The  
 29 bond shall be in form satisfactory to the director and shall be issued by a bonding  
 30 company or insurance company authorized to do business in this state, to secure  
 31 the faithful performance of the obligations of the applicant and the agents and  
 32 subagents of the applicant with respect to the receipt, transmission, and payment  
 33 of money in connection with the sale or issuance of checks and also to pay the  
 34 costs incurred by the division to remedy any breach of the obligations of the  
 35 applicant subject to the bond or to pay examination costs of the division owed and  
 36 not paid by the applicant. Upon license renewal, the required amount of bond  
 37 shall be as follows:

- 38                   (1) For all licensees selling payment instruments or stored value cards,  
 39 five times the high outstanding balance from the previous year with a minimum of  
 40 one hundred thousand dollars and a maximum of one million dollars;  
 41                   (2) For all licensees receiving money for transmission, five times the  
 42 greatest amount transmitted in a single day during the previous year with a  
 43 minimum of one hundred thousand dollars and a maximum of one million dollars.

44  
 45                   If in the opinion of the director the bond shall at any time appear to be inadequate,  
 46 insecure, exhausted, or otherwise doubtful, additional bond in form and with  
 47 surety satisfactory to the director shall be filed within fifteen days after notice of  
 48 the requirement is given to the licensee by the director. An applicant or licensee

1 may, in lieu of filing any bond required under this section, provide the director  
2 with an irrevocable letter of credit, as defined in section 400.5-103, issued by any  
3 state or federal financial institution. Whenever in the director's judgment it is  
4 necessary or expedient, the director may perform a special examination of any  
5 person licensed under sections 361.700 to 361.727 with all authority under section  
6 361.160 as though the licensee were a bank. The cost of such examination shall be  
7 paid by the licensee.]  
8

9 [361.715. 1. Upon the filing of the application, the filing of a certified  
10 audit, the payment of the investigation fee and the approval by the director of the  
11 necessary bond, the director shall cause, investigate, and determine whether the  
12 character, responsibility, and general fitness of the principals of the applicant or  
13 any affiliates are such as to command confidence and warrant belief that the  
14 business of the applicant will be conducted honestly and efficiently and that the  
15 applicant is in compliance with all other applicable state and federal laws. If  
16 satisfied, the director shall issue to the applicant a license pursuant to the  
17 provisions of sections 361.700 to 361.727. In processing a renewal license, the  
18 director shall require the same information and follow the same procedures  
19 described in this subsection.

20 2. Each licensee shall pay to the director before the issuance of the license,  
21 and annually thereafter on or before April fifteenth of each year, a license fee of  
22 three hundred dollars.

23 3. The director may assess a reasonable charge, not to exceed three  
24 hundred dollars, for any application to amend and reissue an existing license.]  
25

26 [361.718. Every licensee shall at all times have on demand deposit in a  
27 federally insured depository institution or in the form of cash on hand or in the  
28 hands of his agents or in readily marketable securities an amount equal to all  
29 outstanding unpaid checks sold by him or his agents in Missouri, in addition to the  
30 amount of his bond. Upon demand by the director, licensees must immediately  
31 provide proof of such funds or securities. The director may make such demand as  
32 often as reasonably necessary and shall make such demand to each licensee,  
33 without prior notice, at least twice each license year.]  
34

35 [361.720. Each licensee may conduct business at one or more locations  
36 within this state and by means of employees, agents, subagents or representatives  
37 as such licensee may designate. No license under sections 361.700 to 361.727  
38 shall be required of any such employee, agent, subagent or representative who  
39 sells checks in behalf of a licensee. Each such agent, subagent or representative  
40 shall upon demand transfer and deliver to the licensee the proceeds of the sale of  
41 licensee's checks less the fees, if any, due such agent, subagent or representative.]  
42

43 [361.723. Each licensee shall file with the director annually on or before  
44 April fifteenth of each year a statement listing the locations of the offices of the  
45 licensee and the names and locations of the agents or subagents authorized by the  
46 licensee to engage in the sale of checks of which the licensee is the issuer.]  
47

48 [361.725. The director may at any time suspend or revoke a license, for  
49 any reason he might refuse to grant a license, for failure to pay an annual fee or for

1 a violation of any provision of sections 361.700 to 361.727. No license shall be  
2 denied, revoked or suspended except on ten days' notice to the applicant or  
3 licensee. Upon receipt of such notice the applicant or licensee may, within five  
4 days of such receipt, make written demand for a hearing. The director shall  
5 thereafter hear and determine the matter in accordance with the provisions of  
6 chapter 536.]

7  
8 [361.727. The director shall issue regulations necessary to carry out the  
9 intent and purposes of sections 361.700 to 361.727, pursuant to the provisions of  
10 section 361.105 and chapter 536.]; and

11  
12 Further amend said bill by amending the title, enacting clause, and intersectional references  
13 accordingly.