

HB 1340 -- MONEY TRANSMISSION MODERNIZATION ACT

SPONSOR: Christ

This bill establishes the "Money Transmission Modernization Act" (MTMA) which replaces existing money transmission laws and ensures that states coordinate in areas of regulation and licensing to eliminate unnecessary regulatory burden; protect the public from financial crime and protect customer funds. The bill provides for uniformity with respect to the subject matter with other states that have enacted the MTMA (Sections 361.900, 361.903 and 361.1032, RSMo).

DEFINITIONS AND EXEMPTIONS (Sections 361.906 and 361.909)

The MMTA contains several definitions as described in the bill, including "money", "outstanding money transmission obligations", "control", "average daily money transmission liability", "multistate licensing process", "passive investor", "payment instrument", and "payroll processing services". The MTMA eliminates technical differences between states that make compliance and reporting difficult for companies operating in multiple states. The bill set forth exemptions from money transmitter licensing to promote consistency among states. The exemptions include, but are not limited to an operator of a payment system that provides processing, clearing, or settlement services between persons who are exempted under the bill; a person appointed as an agent of a payee to collect and process a payment from a payer to the payee for goods and services, other than money transmission itself; a person that acts as an intermediary between an entity and sender; the United States government; state, county, city or governmental agency of subdivision; federally insured depository financial institution; and person registered as a securities broker-dealer under federal or state securities laws.

COMMISSIONERS POWERS AND AUTHORITY (Sections 361.912, 361.915, 361.918 and 361.921)

The bill tasks the Commissioner of the Division of Finance with the Missouri Department of Commerce and Insurance with overseeing the claimed exemptions, entering into agreements with government officials; adopting analytical software systems, accepting from other federal and state government agencies licensing, examination or investigative reports and audit reports. The Commissioner also has broad administrative authority as detailed in the bill. Further, the bill protects the confidentiality of the information and explains the requirements on what information is regarded as protected and confidential. The Commissioner is authorized to

administer and enforce the provisions of the MTMA. The Commissioner is also authorized to participate in multistate supervisory processes between the states and coordinated through the Conference of State Bank Supervisors and Money Transmitter Regulators Association.

CONFLICT OF LAWS (Sections 361.927 and 361.1035)

Inconsistencies between the provisions of MTMA and federal law governing money transmission shall be governed by federal law.

A person licensed in Missouri to engage in the business of money transmission is not subject to the requirements of MTMA to the extent that they conflict with current law or establish new requirements not imposed under current law, until such time as the licensee renews the licensee's current license.

LICENSING (Sections 361.930 to 361.954, 361.978 and 361.1011)

As specified in the bill, a person shall not engage in the business of money transmission or advertise, solicit, or hold itself out as providing money transmission unless the person is licensed. A license is not transferable or assignable. The bill enables multistate licensing, and the Commissioner is encouraged to establish relationships and contracts with the Nationwide Multistate Licensing System and Registry (NMLS) for all aspects of licensing, and utilize their forms, processes, and functionalities accordingly. The Commissioner is required to develop the form and provide a medium for the applicants to apply for a license. The contents of the application form are detailed in the bill. A nonrefundable application fee and license fee should accompany the license application. The Commissioner is authorized to waive the licensing requirements or allow an applicant to submit other information in lieu of the required information.

The bill details the items that any individual in control of a licensee, any individual that seeks to acquire control of a licensee, and each key individual is required to supply to the Commissioner through NMLS. The bill contains time periods for when the Commissioner shall approve or deny a license which is 120 days after the application is determined to be complete. The bill also provides for the term and expiration time period of the license. A license is renewed annually as specified in the bill. The bill also addresses the suspension or revocation of the license.

Any person, or group of persons acting in concert, seeking to acquire control of a licensee shall obtain the written approval of

the Commissioner prior to acquiring control as fully detailed and explained in the bill.

A licensee that adds or replaces any key individual shall follow the requirements set forth in the bill.

A licensee is prohibited from conducting business of money transmission with an unlicensed or nonexempt person. A licensee and an authorized delegate shall file all reports required by federal currency reporting, record keeping, and suspicious activity reporting requirements as set forth in the Bank Secrecy Act and other federal and state laws pertaining to money laundering.

REPORTS FILED BY THE LICENSEE (Sections 361.957, 361.960, 361.963, 361.966, 361.969 and 361.972)

A licensee is required to submit a report of condition within 40 days of the end of the calendar quarter or within any extended time prescribed by the Commissioner that includes information set forth in the bill. Further, the licensee is required to submit within 90 days after the end of each fiscal year an audited financial statement prepared by an independent certified public accountant as explained in the bill. The licensee must also submit a report of authorized delegate within 45 days of the end of the calendar quarter. A licensee is also required to file a report with the Commissioner within one business day after the licensee has knowledge of petitions filed for bankruptcy or reorganization; receivership, revocation or suspension of license.

A licensee and an authorized delegate shall file all reports required by federal currency reporting, record keeping, and suspicious activity reporting requirements as set forth in the Bank Secrecy Act and other federal and state laws pertaining to money laundering. A licensee is required to maintain records for at least 3 years evidencing compliance with the MTMA.

CONDUCTING BUSINESS THROUGH AN AUTHORIZED DELEGATE (Sections 361.975 and 361.981)

Various provisions that apply to a licensee conducting business through an authorized delegate are contained in Section 361.975. Further the bill references civil actions that a licensee can bring against an authorized delegate for failure to remit money.

The cause of action that a licensee can file in circuit court for which the court to grant equitable or legal relief, including prohibiting the authorized delegate to act as an authorized

delegate for any licensee in the state and the payment of restitution, damages or other monetary relief if the court finds that the delegate failed to remit money are specified in Section 361.981. The section also includes misdemeanor and felony actions against a delegate who knowingly fails to remit moneys as mentioned in the bill.

MONEY RECEIVED FOR TRANSMISSION (Sections 361.984, 361.987, 361.990 and 361.993)

Every licensee shall forward all money received for transmission in accordance with the terms of the agreement between the licensee and the sender unless certain conditions apply as explained in the bill. Every licensee shall refund to the sender within 10 days of receipt of the sender's written request for a refund any and all money received for transmission unless certain conditions occur as indicated in the bill. Every licensee or its authorized delegate shall provide the sender a receipt, as defined in the bill, for money received for transmission that contains certain information included in the bill. A licensee is required to disclose on its website or on a receipt provided the name and telephone number of the Division of Finance.

LICENSEE PROVIDING PAYROLL PROCESSING SERVICES (Section 361.996)

The bill provides for the issuance of reports to clients detailing client payroll obligations in advance of the funds being deducted and making worker payroll stubs available. The bill explains when the requirements are inapplicable to a licensee providing payroll processing services.

FINANCIAL MATTERS (Sections 361.999, 361.1002, 361.1005 and 361.1008)

A licensee is required to maintain tangible net worth of the greater of \$100,000 or 3% of total assets for the first \$100 million; 2% of additional assets for \$100 million to \$1 billion; and .05% of additional assets for over \$1 billion. Further, a licensee is required to provide a surety bond in the form satisfactory to the Commissioner. A licensee is also required to maintain permissible investments that have a market value computed under the generally accepted accounting principles of not less than the aggregate amount of all of its outstanding money transmission obligations. The bill includes several detailed provisions relating to permissible investments.

COMMISSIONER'S ORDERS (Sections 361.1014, 361.1017, 361.1020 and 361.1029)

The bill specifies several instances when the Commissioner may issue an order including but not limited to:

- (1) The Commissioner's order relating to suspension or revocation of an authorized delegate's designation based upon certain findings (Section 361.1014);
- (2) The Commissioner's order for a licensee or authorized delegate to cease and desist based upon violations of the MTMA that cause immediate and irreparable harm (Section 361.1017);
- (3) The Commissioner may resolve matters through a consent order (Section 361.1020); and
- (4) The Commissioner may issue an order to show cause (Section 361.1029).

FINES AND PENALTIES (Sections 361.1023 and 361.1026)

The bill outlines the penalties associated with intentional making of a false statement, misrepresentation, or false certification of a record or false entry in the record.

The Commissioner may assess civil penalty for violations under MTMA in an amount not to exceed \$1,000 per day for each day the violation is outstanding, plus costs, expenses and attorney's fees.