

SENATE BILL No. 406

By Committee on Financial Institutions and Insurance

1-29

1 AN ACT concerning financial institutions; enacting the Kansas money
2 transmission act; relating to the electronic transmission of money;
3 oversight thereof by the state bank commissioner; establishing powers,
4 duties and responsibilities of the state bank commissioner; licensing
5 and renewal processes; penalties; repealing K.S.A. 9-508, 9-509, 9-510,
6 9-510a, 9-511, 9-513, 9-513a, 9-513b, 9-513c, 9-513d, 9-513e and
7 K.S.A. 2023 Supp. 9-512
8

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

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

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

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

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

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

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

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

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

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

34 (A) Vote directly or indirectly at least 25% of the outstanding voting
35 shares or voting interests of a licensee or person in control of a licensee;

36 (B) elect or appoint a majority of key individuals or executive

1 officers, managers, directors, trustees or other persons exercising
2 managerial authority of a person in control of a licensee; or

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

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

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

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

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

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

29 (11) "In Kansas" means the:

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

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

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

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

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

40 (15) "Material litigation" means litigation, that according to United
41 States generally accepted accounting principles, is significant to a person's
42 financial health and would be a required disclosure in the person's annual
43 audited financial statements, report to shareholders or similar records.

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

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

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

8 (i) Selling or issuing payment instruments to a person located in
9 Kansas;

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

11 (iii) receiving money for transmission from a person located in
12 Kansas; or

13 (iv) payroll processing services.

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

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

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

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

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

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

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

42 (B) "In the United States" includes a person in any state, territory or
43 possession of the United States, the District of Columbia, the

1 commonwealth of Puerto Rico or a United States military installation that
2 is located in a foreign country.

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (28) "Stored value" means monetary value representing a claim

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

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

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

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

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

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

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

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

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

33 (A) Is properly licensed or exempt from licensing requirements under
34 this act;

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

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

42 (4) The United States government and any agency, bureau,
43 department, office or instrumentality, corporate or otherwise, thereof,

1 including any official, employee or agent of any such entity.

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

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

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

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

17 (9) A board of trade designated as a contract market under 7 U.S.C.
18 §§ 1 through 25 or a person that in the ordinary course of business
19 provides clearance and settlement services for a board of trade to the
20 extent of the board of trade's operation as or for such a board.

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

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

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

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

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

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

1 (14) A person exempt by any rules or regulations adopted or by an
2 order issued if the commissioner finds such exemption to be in the public
3 interest and that the regulation of such person is not necessary for the
4 purposes of this act.

5 (b) The commissioner may require that any person claiming to be
6 exempt from licensing pursuant to this section provide information and
7 documentation to the commissioner demonstrating that such person
8 qualifies for any claimed exemption.

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

11 (1) Enter into agreements or relationships with other government
12 officials or federal and state regulatory agencies and regulatory
13 associations to improve efficiencies and reduce regulatory burden by
14 standardizing methods or procedures and sharing resources, records or
15 related information obtained under this act;

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

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

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

25 (b) The commissioner shall have the broad administrative authority to
26 administer, interpret and enforce this act, promulgate rules and regulations
27 necessary to implement this act and set proportionate and equitable fees
28 and costs associated with applications, examinations, investigations and
29 other actions required to provide sufficient funds to meet the budget
30 requirements of administering and enforcing the act for each fiscal year
31 and to achieve the purposes of this act.

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

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

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

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

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

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

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

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

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

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

23 Sec. 5. (a) The commissioner may conduct an examination or
24 investigation of a licensee or authorized delegate or otherwise take
25 independent action authorized by this act or by any rules and regulations
26 adopted or an order issued under this act as reasonably necessary or
27 appropriate to administer and enforce this act, regulations implementing
28 this act and other applicable federal law. The commissioner may:

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

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

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

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

42 (b) A licensee or authorized delegate shall provide the commissioner
43 with full and complete access to all records the commissioner may

1 reasonably require to conduct a complete examination. The records shall
2 be provided at the location and in the format specified by the
3 commissioner. The commissioner may utilize multistate record production
4 standards and examination procedures when such standards will
5 reasonably achieve the requirements of this section.

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

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

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

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

21 (3) cooperate, coordinate and share information with organizations,
22 the membership of which is made up of state or federal governmental
23 agencies, if the organizations agree in writing to maintain the
24 confidentiality and security of the shared information in accordance with
25 section 4, and amendments thereto.

26 (b) The commissioner shall not waive, and nothing in this section
27 shall constitute a waiver of, the commissioner's authority to conduct an
28 examination or investigation or otherwise take independent action
29 authorized by this act or rules and regulations adopted or an order issued
30 under this act to enforce compliance with applicable state or federal law.

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

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

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

41 (1) Inconsistency; and

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

43 Sec. 8. (a) A person may not engage in the business of money

1 transmission or advertise, solicit or hold itself out as providing money
2 transmission unless the person is licensed under this act.

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

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

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

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

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

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

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

19 (b) The commissioner is authorized to establish relationships or
20 contracts with the national multistate licensing system and registry or other
21 entities designated by the national multistate licensing system and registry
22 to:

23 (1) Collect and maintain records;

24 (2) coordinate multistate licensing processes and supervision
25 processes;

26 (3) process fees; and

27 (4) facilitate communication between the commissioner and licensees
28 or other persons subject to this act.

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

34 (d) The commissioner may utilize nationwide multistate licensing
35 system and registry forms, processes and functionalities in accordance
36 with this act. If the nationwide multistate licensing system and registry
37 does not provide functionality, forms or processes for the provision of this
38 act, the commissioner is authorized to implement the requirements in a
39 manner that facilitates uniformity regarding the licensing, supervision,
40 reporting and regulation of licensees that are licensed in multiple
41 jurisdictions.

42 (e) The commissioner may establish new requirements or waive or
43 modify, in whole or in part, any or all of the existing requirements as

1 reasonably necessary to participate in the nationwide multistate licensing
2 system and registry through the adoption of any rules and regulations
3 adopted or an order issued or the issuance of an order.

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

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

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

18 (3) a description of any money transmission services previously
19 provided by the applicant and the money transmission services the
20 applicant seeks to provide in Kansas;

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

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

27 (6) information concerning any bankruptcy or receivership
28 proceedings affecting the licensee or a person in control of a licensee;

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

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

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

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

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

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

43 (2) a certificate of good standing from the state or country where the

1 applicant is incorporated or formed, if applicable;

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

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

9 (5) for any person in control of the applicant, a list of any felony
10 convictions and for the 10-year period immediately preceding the
11 submission of the application, a list of any criminal misdemeanor
12 convictions of a crime of dishonesty, fraud or deceit and any material
13 litigation in which the person involved is in control of an applicant that is
14 not an individual;

15 (6) a copy of the applicant's audited financial statements for the most
16 recent fiscal year and for the two-year period immediately preceding the
17 most recent fiscal year or, if acceptable to the commissioner, certified
18 unaudited financial statements for the most recent fiscal year or other
19 period acceptable to the commissioner;

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

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

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

26 (A) A corporation publicly traded in the United States, a copy of the
27 parent corporation's audited financial statements for the most recent fiscal
28 year or a copy of the parent corporation's most recent financial report filed
29 with the securities and exchange commission pursuant to 15 U.S.C. § 78m;
30 or

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

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

36 (11) any other information that the commissioner reasonably requires
37 regarding the applicant.

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

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

43 Sec. 11. (a) As a part of any original application, any individual in

1 control of a licensee, any applicant in control of a licensee and each key
2 individual shall provide the commissioner with the following items
3 through the nationwide multistate licensing system and registry:

4 (1) (A) The office of the state bank commissioner may require an
5 individual to be fingerprinted and submit to a state and national criminal
6 history record check. The fingerprints shall be used to identify the
7 individual and to determine whether such individual has a record of
8 criminal history in this state or other jurisdictions. The office of the state
9 bank commissioner is authorized to submit the fingerprints to the Kansas
10 bureau of investigation and the federal bureau of investigation for a state
11 and national criminal history record check. The office of the state bank
12 commissioner may use the information obtained from fingerprinting and
13 the criminal history for purposes of verifying the identification of the
14 individual and in the official determination of the qualifications and fitness
15 of the individual to be issued or to maintain a license;

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

20 (C) The Kansas bureau of investigation shall release all records of
21 adult convictions and nonconvictions in Kansas and adult convictions,
22 adjudications and nonconvictions of another state or country to the office
23 of the state bank commissioner. Disclosure or use of any information
24 received for any purpose other than provided in this section shall be a class
25 A misdemeanor and shall constitute grounds for removal from office or
26 termination of employment; and

27 (D) Any individual that currently resides and has continuously
28 resided outside of the United States for the past 10 years shall not be
29 required to comply with this subsection; and

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

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

36 (B) information related to any criminal convictions or pending
37 charges; and

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

42 (b) (1) If the individual has resided outside of the United States at any
43 time during the 10-year period immediately preceding the individual's

1 application, the individual shall also provide an investigative background
2 report prepared by an independent search firm.

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

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

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

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

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

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

22 (C) employment history;

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

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

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

31 Sec. 12. (a) A person is presumed to exercise a controlling influence
32 when such person holds the power to vote, directly or indirectly, at least
33 10% of the outstanding voting shares or voting interests of a licensee or
34 person in control of a licensee.

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

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

1 Sec. 13. (a) (1) When an application for an original license under this
2 act appears to include all the items and addresses all of the matters that are
3 required, the application shall be deemed complete, and the commissioner
4 shall promptly notify the applicant of the date the application is deemed
5 complete. The commissioner shall approve or deny the application within
6 120 days after the completion date.

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

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

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

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

14 (b) A determination by the commissioner that an application is
15 complete and accepted for processing means that the application, on its
16 face, appears to include all of the items, including the criminal history
17 background check response from the Kansas bureau of investigation and
18 that such application addresses all of the matters that are required. A
19 determination of completion by the commissioner shall not be deemed to
20 be an assessment of the substance of the application or of the sufficiency
21 of the information provided.

22 (c) When an application is filed and considered complete under this
23 section, the commissioner shall investigate the applicant's financial
24 condition and responsibility, financial and business experience, character
25 and general fitness. The commissioner may conduct an on-site
26 investigation of the applicant at the applicant's expense. The commissioner
27 shall issue a license to an applicant under this section if the commissioner
28 finds that the following conditions have been fulfilled:

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

31 (2) the financial condition and responsibility, financial and business
32 experience, competence, character and general fitness of the applicant and
33 key individuals and persons in control of the applicant indicate that it is in
34 the interest of the public to permit the applicant to engage in money
35 transmission.

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

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

42 (2) if Kansas is the lead investigative state, the commissioner is
43 hereby authorized to investigate the applicant pursuant to subsection (c)

1 utilizing the timeframes established by agreement through the multistate
2 licensing process. No such timeframes shall be considered noncompliant
3 with the application period in subsection (a)(1).

4 (e) The commissioner shall issue a formal written notice of the denial
5 of a license application within 14 days of the decision to deny the
6 application. The commissioner shall state in the notice of denial the
7 specific reasons for the denial of the application. An applicant whose
8 application is denied by the commissioner under this subsection may
9 appeal within 14 days of receiving the notice and request a hearing in
10 accordance with the Kansas administrative procedure act, K.S.A. 77-501 et
11 seq., and amendments thereto.

12 (f) The initial license term shall begin on the day the application is
13 approved. The license shall expire on December 31 of the year in which
14 the license term began, unless the initial license date is between November
15 1 and December 31, in which case the initial license term shall run through
16 December 31 of the following year.

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

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

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

24 (b) A licensee shall submit a complete renewal report with the
25 renewal fee, in a form and manner determined by the commissioner. The
26 renewal report shall contain a description of each material change in
27 information submitted by the licensee in the licensee's original license
28 application that has not been reported to the commissioner.

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

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

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

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

41 Sec. 15. (a) If a licensee does not continue to meet the qualifications
42 or satisfy the requirements of an applicant for a new money transmission
43 license, the commissioner may suspend or revoke the licensee's license in

1 accordance with the procedures established by this act or other applicable
2 state law for such suspension or revocation.

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

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

12 (b) If an applicant fails to complete the application for a new license
13 or for a change of control of a license within 60 days after the
14 commissioner provides written notice of the incomplete application, the
15 application will be deemed abandoned and the application fee shall be
16 nonrefundable. An applicant whose application is abandoned under this
17 section may reapply to obtain a new license.

18 Sec. 17. (a) When any person or group of persons acting in concert
19 are seeking to acquire control of a licensee, the licensee shall obtain the
20 written approval of the commissioner prior to the change of control. An
21 individual is not deemed to acquire control of a licensee and is not subject
22 to this section when that individual becomes a key individual in the
23 ordinary course of business.

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

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

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

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

43 (2) If the application is not approved or denied within 60 days after

1 the completion date:

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

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

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

7 (f) A determination by the commissioner that an application is
8 complete and is accepted for processing means only that the application,
9 on its face, appears to include all of the items and addresses all of the
10 matters that are required. A determination of completion by the
11 commissioner shall not be deemed to be an assessment of the substance of
12 the application or of the sufficiency of the information provided.

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

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

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

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

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

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

39 (i) The commissioner shall issue a formal written notice of the denial
40 of an application to acquire control within 30 days of the decision to deny
41 the application. The commissioner shall state in the notice of denial the
42 specific reasons for the denial of the application. An applicant whose
43 application is denied by the commissioner under this subsection may

1 appeal within 14 days and request a hearing in accordance with the Kansas
2 administrative procedure act, K.S.A. 77-501 et seq., and amendments
3 thereto.

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

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

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

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

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

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

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

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

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

23 (l)(1) The requirements of subsections (a) and (b) shall not apply to a
24 person that has complied with and received approval to engage in money
25 transmission under this act or was identified as a person in control in a
26 prior application filed with and approved by the commissioner or by a
27 money service business-accredited state pursuant to a multistate licensing
28 process, if:

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

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

36 (C) the licensee to be acquired is expected to meet the requirements
37 of sections 32, 33 and 34, and amendments thereto, after the acquisition of
38 control is completed. If the person acquiring control is a licensee, such
39 licensee shall also be expected to meet the requirements of sections 32, 33
40 and 34, and amendments thereto, after the acquisition of control is
41 completed;

42 (D) the licensee to be acquired shall not implement any material
43 changes to such licensee's business plan as a result of the acquisition of

1 control. If the person acquiring control is a licensee, such licensee shall not
2 implement any material changes to such licensee's business plan as a result
3 of the acquisition of control; and

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

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

10 (m) Before filing an application for approval to acquire control of a
11 licensee, a person may request in writing a determination from the
12 commissioner as to whether such person would be considered a person in
13 control of a licensee upon consummation of a proposed transaction. If the
14 commissioner determines that the person would not be a person in control
15 of a licensee, the person and the proposed transaction shall not be subject
16 to the requirements of subsections (a) and (b).

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

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

23 (2) if Kansas is a lead investigative state, the commissioner is hereby
24 authorized to investigate the applicant pursuant to subsection (m) and the
25 timeframes established by agreement through the multistate licensing
26 process.

27 Sec. 18. (a) A licensee adding or replacing a key individual shall
28 provide:

29 (1) Notice in the manner prescribed by the commissioner within 15
30 days after the effective date of the appointment of the new key individual;
31 and

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

35 (b) Within 90 days of the date on which the notice provided pursuant
36 to subsection (a) was determined to be complete, the commissioner may
37 issue a notice of disapproval of a key individual if the competence,
38 experience, character or integrity of the individual would not be in the best
39 interests of the public or the customers of the licensee to permit the
40 individual to be a key individual of such licensee.

41 (c) A notice of disapproval shall state the basis for disapproval and
42 shall be sent to the licensee and the disapproved individual. A licensee may
43 appeal a notice of disapproval pursuant to the Kansas administrative

1 procedure act, K.S.A. 77-501 et seq., and amendments thereto, within 14
2 days.

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

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

9 (1) The commissioner is hereby authorized to accept the
10 determination of another state if the investigating state has sufficient
11 staffing, expertise and minimum standards for the purpose of this section;
12 or

13 (2) if Kansas is a lead investigative state, the commissioner is
14 authorized to investigate the applicant pursuant to subsection (b) and the
15 timeframes established by agreement through the multistate licensing
16 process.

17 Sec. 19. (a) Every licensee shall submit a report of condition within
18 45 days of the end of the calendar quarter or within any extended time as
19 the commissioner may prescribe.

20 (b) The report of condition shall include:

21 (1) Financial information at the licensee level;

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

25 (3) the permissible investments report;

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

28 (5) any other information the commissioner reasonably requires
29 regarding the licensee.

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

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

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

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

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

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

6 (c) The audited financial statements shall include or be accompanied
7 by a certificate of opinion of the independent certified public accountant or
8 independent public accountant in a form and manner determined by the
9 commissioner. If the certificate or opinion is qualified, the commissioner
10 may order the licensee to take any action as the commissioner may find
11 necessary to enable the independent certified public accountant or
12 independent public accountant to remove the qualification.

13 Sec. 21. (a) Each licensee shall submit a report of authorized
14 delegates within 45 days of the end of each calendar quarter. The
15 commissioner is authorized to utilize the nationwide multistate licensing
16 system and registry for the submission of the report required by this
17 subsection if such utilization is consistent with the requirements of this
18 section.

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

- 21 (1) Company legal name;
- 22 (2) taxpayer employer identification number;
- 23 (3) principal provider identifier;
- 24 (4) physical address;
- 25 (5) mailing address;
- 26 (6) any business conducted in other states;
- 27 (7) any fictitious or trade name;
- 28 (8) contact person's name, phone number and email;
- 29 (9) start date as the licensee's authorized delegate;
- 30 (10) end date acting as the licensee's authorized delegate, if
31 applicable; and
- 32 (11) any other information the commissioner reasonably requires
33 regarding the authorized delegate.

34 Sec. 22. (a) A licensee shall file a report with the commissioner
35 within one business day after the licensee has reason to know of the:

36 (1) Filing of a bankruptcy or reorganization petition by or against the
37 licensee;

38 (2) filing of a petition by or against the licensee for receivership, the
39 commencement of any other judicial or administrative proceeding for the
40 licensee's dissolution or reorganization or the making of a general
41 assignment for the benefit of the licensee's creditors; or

42 (3) commencement of a proceeding to revoke or suspend the
43 licensee's license in a state or country where the licensee engages in

1 business or is licensed.

2 (b) A licensee shall file a report with the commissioner within three
3 business days after the licensee has reason to know of a felony conviction
4 of:

5 (1) The licensee or a key individual or person in control of the
6 licensee; or

7 (2) an authorized delegate.

8 Sec. 23. A licensee and an authorized delegate shall file all reports
9 required by federal currency reporting, recordkeeping and suspicious
10 activity reporting requirements as set forth in federal and state laws
11 pertaining to money laundering. The timely filing of a complete and
12 accurate report required under this section with the appropriate federal
13 agency is deemed compliant with the requirements of this section.

14 Sec. 24. (a) Every licensee shall maintain the following records for at
15 least three years:

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

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

19 (3) bank statements and bank reconciliation records;

20 (4) records of all outstanding money transmission obligations;

21 (5) records of each outstanding money transmission obligation paid
22 within the three-year period the records are maintained;

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

25 (7) any other records the commissioner reasonably requires in rules
26 and regulations.

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

28 (1) In any form of record; and

29 (2) outside this state, if such records are made accessible to the
30 commissioner on seven business days' notice.

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

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

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

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

1 (2) enter into a written contract that complies with subsection (d); and
2 (3) conduct a reasonable risk-based background investigation
3 sufficient for the licensee to determine if the authorized delegate has
4 complied and will likely comply with applicable state and federal law.

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

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

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

11 (2) set forth the nature and scope of the relationship between the
12 licensee and the authorized delegate and the respective rights and
13 responsibilities of each party;

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

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

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

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

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

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

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

33 (e) Within five business days after the suspension, revocation,
34 surrender or expiration of a licensee's license, the licensee shall provide
35 documentation to the commissioner that the licensee has notified all
36 applicable authorized delegates of the licensee whose names are in a
37 record filed with the commissioner of the suspension, revocation,
38 surrender or expiration of a license. Upon suspension, revocation,
39 surrender or expiration of a license, all applicable authorized delegates
40 shall immediately cease to provide money transmission as an authorized
41 delegate of the licensee.

42 (f) An authorized delegate of a licensee holds in trust for the benefit
43 of the licensee all money net of fees received from money transmission. If

1 an authorized delegate commingles any funds received from money
2 transmission with any other funds or property owned or controlled by the
3 authorized delegate, all commingled funds and other property shall be
4 considered held in trust in favor of the licensee in an amount equal to the
5 amount of money net of fees received from money transmission.

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

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

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

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

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

26 (1) Subject to 12 C.F.R. §§ 1005.30 through 1005.36; or
27 (2) pursuant to a written agreement between the licensee and payee to
28 process payments for goods or services provided by the payee.

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

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

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

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

42 (4) the refund is requested for a transaction that the licensee has not
43 completed based on a reasonable belief or a reasonable basis to believe

1 that a crime or violation of law, rules and regulations has occurred, is
2 occurring or may occur.

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

- 5 (1) Sender's name and address or telephone number; or
- 6 (2) particular transaction to be refunded if the sender has multiple
7 outstanding transactions.

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

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

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

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

16 (4) payroll processing services.

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

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

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

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

27 (2) The receipt shall contain the:

28 (A) Name of the sender;

29 (B) name of the designated recipient;

30 (C) date of the transaction;

31 (D) unique transaction or identification number;

32 (E) name of the licensee, the licensee's nationwide multistate
33 licensing system and registry unique identification number, the licensee's
34 business address and the licensee's customer service telephone number;

35 (F) amount of the transaction in United States dollars;

36 (G) fee charged, if any, by the licensee to the sender for the
37 transaction; and

38 (H) taxes collected, if any, by the licensee from the sender for the
39 transaction.

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

1 Sec. 30. Every licensee or authorized delegate shall include on a
2 receipt or disclose on the licensee's website or mobile application the name
3 of the office of the state bank commissioner and a statement that the
4 licensee's Kansas customers can contact the office of the state bank
5 commissioner with questions or complaints about the licensee's money
6 transmission services.

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

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

10 (2) make available worker paystubs or an equivalent statement to
11 workers.

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

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

17 (1) The greater of \$100,000 or 3% of such licensee's total assets up to
18 \$100,000,000;

19 (2) 2% of such licensee's additional assets of \$100,000,000 to
20 \$1,000,000,000; and

21 (3) 0.5% of such licensee's additional assets of over \$1,000,000,000.

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

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

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

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

34 (1) The greater of \$200,000 or an amount equal to 100% of the
35 licensee's average daily money transmission liability in Kansas calculated
36 for the most recently completed three-month period, up to a maximum of
37 \$1,000,000; or

38 (2) \$200,000, if the licensee's tangible net worth exceeds 10% of total
39 assets.

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

43 (d) A licensee may exceed the maximum required bond amount

1 pursuant to section 35, and amendments thereto.

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

6 (b) Except for the permissible investments described in section 35,
7 and amendments thereto, the commissioner may by rules and regulations
8 or order limit the extent to which a specific investment maintained by a
9 licensee within a class of permissible investments may be considered a
10 permissible investment, if the specific investment represents undue risk to
11 customers not reflected in the market value of investments.

12 (c) Permissible investments, even if commingled with other assets of
13 the licensee, shall be held in trust for the benefit of the purchasers and
14 holders of the licensee's outstanding money transmission obligations in the
15 event of insolvency, the filing of a petition by or against the licensee under
16 11 U.S.C. §§ 101 through 110 for bankruptcy or reorganization, the filing
17 of a petition by or against the licensee for receivership, the commencement
18 of any other judicial or administrative proceeding for such licensee's
19 dissolution or reorganization or in the event of an action by a creditor
20 against the licensee who is not a beneficiary of this statutory trust. No
21 permissible investments impressed with a trust pursuant to this subsection
22 shall be subject to attachment, levy of execution or sequestration by order
23 of any court, except for a beneficiary of this statutory trust.

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

41 (e) The commissioner by rules and regulations or by order may allow
42 other types of investments that the commissioner determines are of
43 sufficient liquidity and quality to be a permissible investment. The

1 commissioner is hereby authorized to participate in efforts with other state
2 regulators to determine which other types of investments are of sufficient
3 liquidity and quality to be a permissible investment.

4 Sec. 35. (a) The following investments are permissible under this
5 section:

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

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

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

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

26 (B) the letter of credit shall:

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

31 (a) Bears an eligible rating or whose parent company bears an eligible
32 rating; and

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

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

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

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

1 the issuer of the letter of credit notifies the commissioner in writing by
2 certified or registered mail or courier mail or other receipted means at least
3 60 days prior to any expiration date, that the irrevocable letter of credit
4 will not be extended;

5 (C) if any notice of expiration or non-extension of a letter of credit is
6 issued under clause (a)(4)(B)(iv), the licensee shall be required to
7 demonstrate to the satisfaction of the commissioner, 15 days prior to
8 expiration, that the licensee maintains and shall maintain permissible
9 investments in accordance with section 36(a), and amendments thereto,
10 upon the expiration of the letter of credit. If the licensee is not able to do
11 so, the commissioner may draw on the letter of credit in an amount up to
12 the amount necessary to meet the licensee's requirements to maintain
13 permissible investments in accordance with section 34(a), and
14 amendments thereto. Any such draw shall be offset against the licensee's
15 outstanding money transmission obligations. The drawn funds shall be
16 held in trust by the commissioner or the commissioner's designated agent,
17 to the extent authorized by law, as agent for the benefit of the purchasers
18 and holders of the licensee's outstanding money transmission obligations;

19 (D) the letter of credit shall provide that the issuer of such letter of
20 credit shall honor, at sight, a presentation made of the following
21 documents by the beneficiary to the issuer on or prior to the expiration
22 date of the letter of credit:

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

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

26 (a) The filing of a bankruptcy or reorganization petition by or against
27 the licensee;

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

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

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

40 (E) the commissioner may designate an agent to serve on the
41 commissioner's behalf as beneficiary to a letter of credit if the agent and
42 letter of credit meet requirements established by the commissioner. The
43 commissioner's agent may serve as agent for multiple licensing authorities

1 for a single irrevocable letter of credit if the proceeds of the drawable
2 amount for the purposes of subsection (a)(4) are assigned to the
3 commissioner; and

4 (F) the commissioner is hereby authorized to participate in multistate
5 processes designed to facilitate the issuance and administration of letters
6 of credit, including, but not limited to, services provided by the nationwide
7 multistate licensing system and registry and state regulatory registry, LLC;
8 and

9 (5) 100% of the surety bond provided for under section 33, and
10 amendments thereto, that exceeds the average daily money transmission
11 liability in Kansas.

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

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

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

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

27 (A) A short-term investment of up to six months, bearing an eligible
28 rating;

29 (B) commercial paper bearing an eligible rating;

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

31 (D) United States tri-party repurchase agreements collateralized at
32 100% or more with United States government or agency securities,
33 municipal bonds or other securities bearing an eligible rating;

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

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

40 (3) Cash, including demand deposits, savings deposits and funds in
41 such accounts held for the benefit of the licensee's customers, at foreign
42 depository institutions are permissible up to 10% of the aggregate value of
43 the licensee's total permissible investments if the licensee has received a

1 satisfactory rating in the licensee's most recent examination and the
2 foreign depository institution:

- 3 (A) Has an eligible rating;
- 4 (B) is registered under the foreign account tax compliance act;
- 5 (C) is not located in any country subject to sanctions from the office
6 of foreign asset control; and
- 7 (D) is not located in a high-risk or non-cooperative jurisdiction as
8 designated by the financial action task force.

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

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

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

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

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

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

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

31 (7) the licensee is insolvent, suspends payment of the licensee's
32 obligations or makes a general assignment for the benefit of the licensee's
33 creditors;

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

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

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

42 (11) the licensee demonstrated a pattern of failing to promptly pay
43 obligations;

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

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

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

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

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

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

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

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

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

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

26 (b) In determining whether an authorized delegate is engaging in an
27 unsafe or unsound practice, the commissioner may consider the size and
28 condition of the authorized delegate's provision of money transmission, the
29 magnitude of the loss, the gravity of the violation of this act or any rules
30 and regulations adopted or an order issued under this act and the previous
31 conduct of the authorized delegate.

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

35 Sec. 38. (a) If the commissioner determines that a violation of this act
36 or of any rules and regulations adopted or an order issued under this act by
37 a licensee, a person required to be licensed or authorized delegate is likely
38 to cause immediate and irreparable harm to the licensee, the licensee's
39 customers or the public as a result of the violation or cause insolvency or
40 significant dissipation of assets of the licensee, the commissioner may
41 issue an order requiring the licensee or authorized delegate to cease and
42 desist from the violation. The order shall become effective upon service of
43 the order on the licensee or authorized delegate.

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

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

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

11 Sec. 39. The commissioner may enter into a consent order at any time
12 with a person to resolve a matter arising under this act or any rules and
13 regulations adopted or order issued under this act. A consent order shall be
14 signed by the person to whom such consent order is issued or by the
15 person's authorized representative and shall indicate agreement with the
16 terms contained in the order. A consent order may provide that such
17 consent order does not constitute an admission by a person that this act or
18 rules and regulations adopted or an order issued under this act has been
19 violated.

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

25 (b) Any person that knowingly engages in an activity for which a
26 license is required under this act without being licensed under this act and
27 who receives more than \$500 in compensation within a 30-day period
28 from this activity is guilty of a severity level 9, nonperson felony.

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

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

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

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

41 (3) require the person to pay restitution for any loss arising from the
42 violation or requiring the person to reimburse any profits arising from the
43 violation;

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

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

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

8 (2) Any informal agreement authorized by this subsection shall be
9 considered confidential examination material. The adoption of an informal
10 agreement authorized by this subsection shall not be:

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

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

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

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

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

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

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

26 (2) require the licensee to pay restitution for any loss arising from the
27 violation or require the person to reimburse any profits arising from the
28 violation.

29 Sec. 42. The provisions of this act are severable. If any portion of the
30 act is declared unconstitutional or invalid, or the application of any portion
31 of the act to any person or circumstance is held unconstitutional or invalid,
32 the invalidity shall not affect other portions of the act that can be given
33 effect without the invalid portion or application, and the applicability of
34 such other portions of the act to any person or circumstance shall remain
35 valid and enforceable.

36 Sec. 43. K.S.A. 9-508, 9-509, 9-510, 9-510a, 9-511, 9-513, 9-513a, 9-
37 513b, 9-513c, 9-513d, 9-513e and K.S.A. 2023 Supp. 9-512 are hereby
38 repealed.

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