

AMENDED IN SENATE JUNE 20, 2013

AMENDED IN SENATE JUNE 6, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 786

Introduced by Assembly Member Dickinson

February 21, 2013

An act to amend Sections 2003, 2010, 2011, 2040, 2082, 2084, 2101, and 2102 of, and to add ~~Sections 2154 and 2174 to~~, *Sections 2174 and 2175 to*, the Financial Code, relating to money transmissions.

LEGISLATIVE COUNSEL'S DIGEST

AB 786, as amended, Dickinson. Money transmissions.

Existing law, the Money Transmission Act, provides for the regulation of money transmissions by the Department of Financial Institutions and the Commissioner of Financial Institutions. The Governor's Reorganization Plan No. 2, as of July 1, 2013, abolishes the Department of Financial Institutions and transfers its responsibilities to the Department of Business Oversight and the Commissioner of Business Oversight.

Existing law requires a person who engages in the business of money transmission in this state to be licensed by the department. Existing law provides that only a corporation or limited liability company may be issued a license under the Money Transmission Act. Existing law exempts certain persons or entities from the application of the act, as specified. Existing law authorizes the commissioner, by regulation or order, to exempt from the act any person or transaction or class of persons or transactions, if the commissioner finds such action to be in the public interest and not necessary.

This bill would further exempt from the act a person that delivers ~~payroll money on behalf of an employer to employees by check or deposit in a checking or savings account, as specified~~ *wages or salaries on behalf of employers to employees or facilitates the payment of payroll taxes to state and federal agencies, makes payments relating to employee benefit plans, makes distribution of other authorized deductions from employees' wages or salary, or transmits other funds on behalf of an employer in connection with transactions related to employees.* The bill would authorize the commissioner, by regulation or order, to exempt from all or part of the act any person or transaction or class of persons or transactions and would require the commissioner to adopt regulations to carry out and implement this section. The bill would require the commissioner to make these exemptions public on the commissioner's Internet Web site, as specified.

Existing law requires a licensee to maintain tangible shareholders' equity, as defined, in an amount to be determined from time to time by the commissioner, but not less than \$500,000.

This bill would require an applicant to possess, and a licensee to maintain at all times, tangible shareholder's equity of ~~\$100,000~~ *\$250,000* to \$500,000, depending on estimated or actual transaction volume, as determined by the commissioner. The bill would authorize the commissioner to increase that net worth requirement to ~~up to \$2,000,000, if certain criteria are met.~~ *if the commissioner determines that a higher net worth is necessary based on specified factors.*

Existing law requires a licensee to at all times own eligible securities, meaning any United States currency eligible security or foreign currency eligible security, having an aggregate market value computed in accordance with United States generally accepted accounting principles, as specified.

This bill would specify that any receivable owed by a bank and resulting from an automated clearinghouse or credit-funded transmission is a United States currency eligible security.

Existing law provides that a licensee shall be deemed to own an eligible security under specified criteria. Existing law provides that no licensee shall be deemed not to own an eligible security solely on account of certain facts, provided that, but for that fact, the licensee would be deemed to own the eligible security.

This bill would provide that no licensee shall be deemed not to own an eligible security solely on account of the fact that the licensee holds the eligible security in a custodial capacity as an agent of its customers

in a pooled account in the name of the licensee, as determined by the commissioner based on specified factors.

Existing law requires a licensee or its agent to forward all money received for transmission or give instructions committing equivalent money to the person designated by the customer within 10 days after receiving that money, unless otherwise ordered by the customer. In the case of money received for transmission, existing law requires a receipt to be provided by a licensee or its agent to all customers and requires ~~that the receipt be made available to the customer in English and in the language principally used by that licensee or that agent to advertise at that branch office if other than English~~ *the receipt to include a specified statement in this regard.*

This bill would provide an exception to these requirements when the money transmission is for the payment of goods or services ~~and make a conforming change in this regard.~~

~~Existing law sets forth enforcement provisions under the Money Transmission Act. Existing law authorizes the commissioner to direct a licensee who is out of compliance with the Money Transmission Act to comply with the law or discontinue any unsafe or injurious practices.~~

~~This bill would provide that the commissioner has continuous authority to exercise the powers set forth in this act whether or not an application for a license has been filed with the commissioner, any license has been issued, or if issued, has been surrendered, suspended, or revoked.~~

Existing law provides the commissioner with certain powers for the purposes of enforcing and administering the Money Transmission Act.

This bill would authorize the commissioner to prepare written decisions, opinion letters, and other formal written guidance and would require the commissioner to make public on the commissioner's Internet Web site all written decisions, opinion letters, and other formal written guidance *subject to certain limitations. The bill would also authorize the commissioner to offer guidance to a prospective licensee regarding the conditions of licensure and would require the commissioner offering such guidance to provide a prospective applicant with net worth information.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2003 of the Financial Code is amended
2 to read:

3 2003. For purposes of this division, the following definitions
4 shall apply:

5 (a) “Affiliate,” when used with respect to a specified person,
6 means any person controlling, controlled by, or under common
7 control with, that specified person, directly or indirectly through
8 one or more intermediaries. For purposes of subdivisions (q) and
9 (v), a specified person is affiliated with another person if that
10 person controls, is controlled by, or under common control through
11 the ownership directly or indirectly of shares or equity securities
12 possessing more than 50 percent of the voting power of that
13 specified person.

14 (b) “Agent” means a person that is not itself licensed as a money
15 transmitter in California and provides money transmission in
16 California on behalf of the licensee, provided that the licensee
17 becomes liable for the money transmission from the time money
18 or monetary value is received by that person. However, “agent”
19 does not include any officer or employee of the licensee when
20 acting as such at an office of a licensee.

21 (c) “Applicant” means a person that files an application for a
22 license or for acquisition of control of a licensee under this division.

23 (d) “Average daily outstanding” means the amount of
24 outstanding money transmission obligations in California at the
25 end of each day in a given period of time, added together, and
26 divided by the total number of days in that period of time.

27 (e) “Branch office” means any office in this state of a licensee
28 or agent at which the licensee receives money or monetary value
29 to provide money transmission, either directly or through an agent.

30 (f) “Business day” means one of the following:

31 (1) When used with respect to any act to be performed in this
32 state, any day other than Saturday, Sunday, or any other day that
33 is provided for as a holiday in the Government Code.

34 (2) When used with respect to any act to be performed in any
35 jurisdiction other than this state, any day other than a day that is
36 a legal holiday under the laws of that jurisdiction.

37 (g) “Commissioner” means the Commissioner of Financial
38 Institutions.

- 1 (h) “Control” has the meaning set forth in Section 1250.
2 (i) “Day” means calendar day.
3 (j) “In California” or “in this state” means physically located
4 in California, or with, to, or from persons located in California.
5 (k) “Issue” and “issuer” mean, with regard to a payment
6 instrument, the entity that is the maker or drawer of the instrument
7 in accordance with the California Commercial Code and is liable
8 for payment. With regard to stored value, “issue” and “issuer”
9 mean the entity that is liable to the holder of stored value and has
10 undertaken or is obligated to pay the stored value. Only a licensee
11 may issue stored value or payment instruments.
12 (l) “Licensee” means a corporation or limited liability company
13 licensed under this division.
14 (m) “Monetary value” means a medium of exchange, whether
15 or not redeemable in money.
16 (n) “Money” means a medium of exchange that is authorized
17 or adopted by the United States or a foreign government. The term
18 includes a monetary unit of account established by an
19 intergovernmental organization or by agreement between two or
20 more governments.
21 (o) “Money transmission” means any of the following:
22 (1) Selling or issuing payment instruments.
23 (2) Selling or issuing stored value.
24 (3) Receiving money for transmission.
25 (p) “Outstanding,” with respect to payment instruments and
26 stored value, means issued or sold by the licensee in the United
27 States and not yet paid or refunded by the licensee, or issued or
28 sold on behalf of the licensee in the United States by its agent and
29 reported as sold, but not yet paid or refunded by the licensee.
30 “Outstanding,” with respect to receiving money for transmission
31 means all money or monetary value received in the United States
32 for transmission by the licensee or its agents but not yet paid to
33 the beneficiaries or refunded to the person from whom the money
34 or monetary value was received. All outstanding money
35 transmission of a licensee is and shall remain a liability of the
36 licensee until it is no longer outstanding.
37 (q) “Payment instrument” means a check, draft, money order,
38 traveler’s check, or other instrument for the transmission or
39 payment of money or monetary value, whether or not negotiable.
40 The term does not include a credit card voucher, letter of credit,

1 or any instrument that is redeemable by the issuer for goods or
2 services provided by the issuer or its affiliate.

3 (r) “Person” means an individual, corporation, business trust,
4 estate, trust, partnership, proprietorship, syndicate, limited liability
5 company, association, joint venture, government, governmental
6 subdivision, agency or instrumentality, public corporation or joint
7 stock company, or any other organization or legal or commercial
8 entity, provided, however, that “person,” when used with respect
9 to acquiring control of or controlling a specified person, includes
10 any combination of two or more persons acting in concert.

11 (s) “Receiving money for transmission” or “money received for
12 transmission” means receiving money or monetary value in the
13 United States for transmission within or outside the United States
14 by electronic or other means. The term does not include sale or
15 issuance of payment instruments and stored value.

16 (t) “Record” means information that is inscribed on a tangible
17 medium or that is stored in an electronic or other medium and is
18 retrievable in perceivable form.

19 (u) “State” means a state of the United States, the District of
20 Columbia, Puerto Rico, the United States Virgin Islands, or any
21 territory or insular possession subject to the jurisdiction of the
22 United States.

23 (v) “Stored value” means monetary value representing a claim
24 against the issuer that is stored on an electronic or digital medium
25 and evidenced by an electronic or digital record, and that is
26 intended and accepted for use as a means of redemption for money
27 or monetary value or payment for goods or services. The term does
28 not include a credit card voucher, letter of credit, or any stored
29 value that is only redeemable by the issuer for goods or services
30 provided by the issuer or its affiliate, except to the extent required
31 by applicable law to be redeemable in cash for its cash value.

32 (w) “Traveler’s check” means an instrument that meets all of
33 the following:

34 (1) Is designated on its face by the term “traveler’s check” or
35 by any substantially similar term or is commonly known and
36 marketed as a traveler’s check.

37 (2) Contains a provision for a specimen signature of the
38 purchaser to be completed at the time of purchase.

39 (3) Contains a provision for a countersignature of the purchaser
40 to be completed at the time of negotiation.

1 SEC. 2. Section 2010 of the Financial Code is amended to read:

2 2010. This division does not apply to the following:

3 (a) The United States or a department, agency, or instrumentality
4 thereof, including any federal reserve bank and any federal home
5 loan bank.

6 (b) Money transmission by the United States Postal Service or
7 by a contractor on behalf of the United States Postal Service.

8 (c) A state, county, city, or any other governmental agency or
9 governmental subdivision of a state.

10 (d) A commercial bank or industrial bank, the deposits of which
11 are insured by the Federal Deposit Insurance Corporation or its
12 successor, or any foreign (other nation) bank that is licensed under
13 Article 3 (commencing with Section 1800) of Chapter 20 or that
14 is authorized under federal law to maintain a federal agency or
15 federal branch office in this state; a trust company licensed pursuant
16 to Section 1042 or a national association authorized under federal
17 law to engage in a trust banking business; an association or federal
18 association, as defined in Section 5102 the deposits of which are
19 insured by the Federal Deposit Insurance Corporation or its
20 successor; and any federally or state chartered credit union the
21 member accounts of which are insured or guaranteed as provided
22 in Section 14858.

23 (e) Electronic funds transfer of governmental benefits for a
24 federal, state, county, or local governmental agency by a contractor
25 on behalf of the United States or a department, agency, or
26 instrumentality thereof, or a state or governmental subdivision,
27 agency, or instrumentality thereof.

28 (f) A board of trade designated as a contract market under the
29 federal Commodity Exchange Act (7 U.S.C. Secs. 1–25, incl.) or
30 a person that, in the ordinary course of business, provides clearance
31 and settlement services for a board of trade to the extent of its
32 operation as or for such a board.

33 (g) A person that provides clearance or settlement services
34 pursuant to a registration as a clearing agency or an exemption
35 from registration granted under the federal securities laws to the
36 extent of its operation as such a provider.

37 (h) An operator of a payment system to the extent that it provides
38 processing, clearing, or settlement services, between or among
39 persons excluded by this section, in connection with wire transfers,
40 credit card transactions, debit card transactions, stored value

1 transactions, automated clearing house transfers, or similar funds
2 transfers, to the extent of its operation as such a provider.

3 (i) A person registered as a securities broker-dealer under federal
4 or state securities laws to the extent of its operation as such a
5 broker-dealer.

6 ~~(j) A person that delivers payroll money on behalf of an
7 employer to employees by check or deposit into a checking or
8 savings account at a bank, savings bank, savings and loan
9 association, savings association, or credit union, if that delivery is
10 the only money transmission activity of which the person engages.~~

11 *(j) A person that delivers wages or salaries on behalf of
12 employers to employees or facilitates the payment of payroll taxes
13 to state and federal agencies, makes payments relating to employee
14 benefit plans, makes distribution of other authorized deductions
15 from employees' wages or salary, or transmits other funds on
16 behalf of an employer in connection with transactions related to
17 employees. Notwithstanding this subdivision, a person described
18 herein that offers money transmission services or provides stored
19 value cards directly to individual customers shall comply with this
20 division to the extent of such activity.*

21 (k) A person listed under subdivision (d) is exempted from all
22 the provisions of this division, except Sections 2062 and 2063.

23 SEC. 3. Section 2011 of the Financial Code is amended to read:

24 2011. (a) The commissioner may, by regulation or order, either
25 unconditionally or upon specified terms and conditions or for
26 specified periods, exempt from all or part of this division any
27 person or transaction or class of persons or transactions, if the
28 commissioner finds such action to be in the public interest and that
29 the regulation of such persons or transactions is not necessary for
30 the purposes of this division. The commissioner shall post on the
31 commissioner's Internet Web site a list of all persons, transactions,
32 or classes of person or transactions exempt pursuant to this section,
33 and the part or parts of this division from which they are exempt.

34 (b) The commissioner shall adopt regulations to carry out and
35 implement this section.

36 SEC. 4. Section 2040 of the Financial Code is amended to read:

37 2040. (a) An applicant shall possess, and a licensee shall
38 maintain at all times, tangible shareholder's equity of ~~one hundred
39 thousand dollars (\$100,000)~~ *two hundred fifty thousand dollars*
40 *(\$250,000)* to five hundred thousand dollars (\$500,000), depending

1 on estimated or actual transaction volume, as determined by the
2 commissioner *based on the factors described in subdivision (c)*.

3 (b) The commissioner may increase the amount of net worth
4 required of an applicant or licensee, ~~up to a maximum of two~~
5 ~~million dollars (\$2,000,000)~~, licensee if the commissioner
6 determines, with respect to the applicant or licensee, that a higher
7 net worth is necessary to achieve the purposes of this division
8 based on the ~~following factors~~: *factors described in subdivision*
9 *(c)*.

10 (c) *When making a determination pursuant to subdivision (a)*
11 *or (b), the commissioner shall consider the following factors:*

12 (1) The nature and volume of the projected or established
13 business.

14 (2) The number of locations at or through which money
15 transmission is or will be conducted.

16 (3) The amount, nature, quality, and liquidity of its assets.

17 (4) The amount and nature of its liabilities.

18 (5) The history of its operations and prospects for earning and
19 retaining income.

20 (6) The quality of its operations.

21 (7) The quality of its management.

22 (8) The nature and quality of its principals.

23 (9) The nature and quality of the persons in control.

24 (10) The history of its compliance with applicable state and
25 federal law.

26 (11) Any other factor the commissioner considers relevant.

27 ~~(e)~~

28 (d) The commissioner at any time may require a licensee to
29 write down any asset held by it to a valuation that will represent
30 its then fair market value. Any receivable or debt due to a licensee
31 that is past due and unpaid for the period of one year shall be
32 charged off, unless it is well secured or is in process of collection.

33 ~~(e)~~

34 (e) The aggregate value of a licensee's accounts receivable,
35 excluding money transmission receivables, loans or extensions of
36 credit to any one person, or that person's affiliates, cannot exceed
37 50 percent of the licensee's tangible shareholders' equity without
38 the advanced written approval of the commissioner. Whenever
39 such amount equals or exceeds 20 percent of the licensee's tangible
40 shareholders' equity, the licensee shall maintain records evidencing

1 such amount and any security or other source of payment for the
 2 amount owed, and such other records as the commissioner may
 3 require by order or regulation.

4 (e)

5 (f) The commissioner shall adopt regulations to carry out and
 6 implement the factors described in subdivision-~~(b)~~ (c).

7 SEC. 5. Section 2082 of the Financial Code is amended to read:

8 2082. (a) “Eligible security” means any United States currency
 9 eligible security or foreign currency eligible security.

10 (b) For the purposes of this division, the following are United
 11 States currency eligible securities:

12 (1) Cash.

13 (2) Any deposit in an insured bank or an insured savings and
 14 loan association or insured credit union.

15 (3) Any bond, note, or other obligation that is issued or is
 16 guaranteed by the United States or any agency of the United States.

17 (4) Any bond, note, or other obligation that is issued or
 18 guaranteed by any state of the United States or by any
 19 governmental agency of or within any state of the United States
 20 and that is assigned an eligible rating by an eligible securities rating
 21 service.

22 (5) Any bankers acceptance that is eligible for discount by a
 23 federal reserve bank.

24 (6) Any commercial paper that is assigned an eligible rating by
 25 an eligible rating securities service.

26 (7) Any bond, note, or other obligation that is assigned an
 27 eligible rating by an eligible securities rating service.

28 (8) Any share of an investment company that is an open-end
 29 management company, that is registered under the Investment
 30 Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.), that holds
 31 itself out to investors as a money market fund, and that operates
 32 in accordance with all provisions of the Investment Company Act
 33 of 1940, and the regulations of the Securities and Exchange
 34 Commission applicable to money market funds, including Section
 35 270.2a-7 of the regulations of the Securities and Exchange
 36 Commission (17 C.F.R. 270.2a-7).

37 For purposes of this paragraph and paragraph (9), “investment
 38 company,” “management company,” and “open-end” have the
 39 meanings set forth in Sections 3, 4, and 5, respectively, of the

1 Investment Company Act of 1940 (15 U.S.C. Secs. 80a-4 and
2 80a-5, respectively).

3 (9) Any share of an investment company that is an open-end
4 management company, that is registered under the Investment
5 Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.), and that
6 invests exclusively in securities that constitute eligible securities
7 that comply with valuation requirements of this division.

8 (10) Any account due to any licensee from any agent in the
9 United States on account of the receipt of money on behalf of the
10 licensee for money transmission by the agent, if the account is
11 current and not past due or otherwise doubtful of collection.

12 (11) Any other security or class of securities that the
13 commissioner has by regulation or order declared to be eligible
14 securities.

15 (12) Any receivable owed by a bank and resulting from an
16 automated clearinghouse or credit-funded transmission.

17 (c) “Foreign currency eligible security” means any of the
18 following that is denominated in a foreign currency:

19 (1) Cash.

20 (2) Any deposit in an office of a bank acceptable to the
21 commissioner that is located in a foreign country.

22 (3) Any other security or class of securities that the
23 commissioner has by regulation or order declared to be eligible
24 securities pursuant to Section 2086.

25 (d) For the purposes of this division, “value” means the
26 following:

27 (1) When used with respect to an eligible security owned by a
28 licensee of the type described in paragraph (10) of subdivision (b),
29 net carrying value as determined in conformity with United States
30 generally accepted accounting principles. However, in computing
31 the value of the account, any amount that consists of money that
32 has not been remitted to the licensee or refunded within 45 business
33 days of receipt by the agent shall be excluded from the value of
34 the account and shall be excluded from the calculation of eligible
35 securities.

36 (2) Market value when used with respect to any other eligible
37 security owned by a licensee.

38 SEC. 6. Section 2084 of the Financial Code is amended to read:

39 2084. (a) A licensee shall be deemed to own an eligible
40 security only if the following apply:

1 (1) The licensee owns the eligible security solely and exclusively
 2 in its own right, both of record and beneficially.

3 (2) The eligible security is not subject to any pledge, lien, or
 4 security interest.

5 (3) The licensee can freely negotiate, assign, or otherwise
 6 transfer the eligible security.

7 (b) Notwithstanding subdivision (a), no licensee shall be deemed
 8 not to own an eligible security solely on account of any of the
 9 following facts, provided that, but for that fact, the licensee would
 10 be deemed to own the eligible security under the provisions of
 11 subdivision (a):

12 (1) The fact that the eligible security is owned of record by a
 13 documented nominee of the licensee or by a securities depository.

14 (2) The fact that the licensee has pledged the eligible security
 15 with the United States or any state of the United States to secure
 16 payment by the licensee of transmission money.

17 (3) The fact that the licensee holds the eligible security in a
 18 custodial capacity as an agent of its customers in a pooled account
 19 titled in the name of the licensee for the benefit of its customers.

20 (c) The commissioner shall make a determination of the
 21 application of paragraph (3) of subdivision (b) based on the
 22 following:

23 (1) The amount, nature, quality, and liquidity of the licensee’s
 24 assets.

25 (2) The amount and nature of the licensee’s liabilities.

26 (3) The history of the licensee’s compliance with applicable
 27 state and federal law.

28 SEC. 7. Section 2101 of the Financial Code is amended to read:

29 2101. Every licensee or its agent shall forward all money
 30 received for transmission or give instructions committing
 31 equivalent money to the person designated by the customer within
 32 ~~10 days after receiving that money, unless otherwise ordered by~~
 33 ~~his or her customer or when the transmission is for the payment~~
 34 ~~of goods or services.~~ *customer. Unless the transmission is for the*
 35 *payment of goods or services or unless otherwise ordered by his*
 36 *or her customer, this requirement shall be satisfied within 10 days*
 37 *after receiving that money.*

38 SEC. 8. Section 2102 of the Financial Code is amended to read:

39 2102. (a) Every licensee or its agent shall refund to the
 40 customer within 10 days of receipt of the customer’s written request

1 for a refund any and all money received for transmission unless
2 any of the following occurs:

3 (1) The money has been forwarded within 10 days of the date
4 of receipt.

5 (2) Instructions have been given committing an equivalent
6 amount of money to the person designated by the customer within
7 10 days of the date of the receipt of the money from the customer.

8 (3) The customer instructs the licensee to transmit the money
9 at a time beyond 10 days. If the customer gives instructions as to
10 when the money shall be forwarded or transmitted and the moneys
11 have not yet been forwarded or transmitted, the licensee or its
12 agent shall refund the customer's money within 10 days of receipt
13 of the customer's written request for a refund.

14 (4) Refund would violate law.

15 (b) In the case of money received for transmission, ~~except for~~
16 ~~money transmission for the payment of goods or services,~~ a receipt
17 shall be provided by a licensee or its agent to all customers which
18 shall be made available to the customer in English and in the
19 language principally used by that licensee or that agent to advertise,
20 solicit, or negotiate, either orally or in writing, at that branch office
21 if other than English. ~~The~~ *Except when money is received for*
22 *transmission for the payment of goods or services, the* receipt shall
23 either include or have attached a conspicuous statement in English
24 and in the language principally used by the licensee or that agent
25 to advertise, solicit, or negotiate, either orally or in writing at that
26 branch office if other than English in a size equal to at least 10
27 point bold type, as follows:

28

29 RIGHT TO REFUND

30

31 "You, the customer, are entitled to a refund of the money to be transmitted as
32 the result of this agreement if _____ (name of licensee) does not forward the
33 money received from you within 10 days of the date of its receipt, or does not
34 give instructions committing an equivalent amount of money to the person
35 designated by you within 10 days of the date of the receipt of the funds from
36 you unless otherwise instructed by you ~~or when the transmission is for the~~
37 ~~payment of goods or services.~~

38

1 If your instructions as to when the moneys shall be forwarded or transmitted
2 are not complied with and the money has not yet been forwarded or transmitted,
3 you have a right to a refund of your money.

4
5 If you want a refund, you must mail or deliver your written request to _____
6 (name of licensee) at _____ (mailing address of licensee). If you do not receive
7 your refund, you may be entitled to your money back plus a penalty of up to
8 \$1,000 and attorney’s fees pursuant to Section 2102 of the California Financial
9 Code.”

10
11 (c) A cause of action under this section may be brought in small
12 claims court if it does not exceed the jurisdiction of that court, or
13 in any other appropriate court. The customer shall be entitled to
14 recover each of the following:

15 (1) Any and all money received for transmission, plus any fees
16 and charges paid by the customer.

17 (2) A penalty in an amount not to exceed one thousand dollars
18 (\$1,000). The court shall award the prevailing party costs and
19 attorney’s fees.

20 ~~SEC. 9. Section 2154 is added to the Financial Code, to read:~~
21 ~~2154. Whenever the commissioner deems it necessary for the~~
22 ~~general welfare of the public, he or she has continuous authority~~
23 ~~to exercise the powers set forth in this division whether or not an~~
24 ~~application for a license has been filed with the commissioner, any~~
25 ~~license has been issued, or if issued, has been surrendered,~~
26 ~~suspended, or revoked.~~

27 ~~SEC. 10.~~

28 *SEC. 9.* Section 2174 is added to the Financial Code, to read:

29 2174. (a) The commissioner may prepare written decisions,
30 opinion letters, and other formal written guidance to be issued to
31 persons seeking clarification regarding the requirements of this
32 division.

33 (b) The commissioner shall make public on the commissioner’s
34 Internet Web site all written decisions, opinion letters, and other
35 formal written guidance issued to persons seeking clarification
36 regarding the requirements of this division. *The commissioner*
37 *may, at his or her discretion or upon request by an applicant or*
38 *licensee, redact proprietary or other confidential information*
39 *regarding an applicant or licensee from any decision, letter, or*

1 *other written guidance issued in connection with an applicant or*
2 *licensee.*

3 *SEC. 10. Section 2175 is added to the Business and Professions*
4 *Code, to read:*

5 *2175. The commissioner may offer guidance to any prospective*
6 *applicant for a license under this division, regarding the conditions*
7 *of licensure that may be applied to that person. The commissioner*
8 *shall inform any applicant that requests that guidance of the*
9 *minimum net worth that will be required of that applicant and the*
10 *factors used to make that determination as described in Section*
11 *2040.*

O