

AMENDED IN ASSEMBLY MAY 5, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2209

Introduced by Assembly Member Dickinson

February 20, 2014

An act to amend Sections 2001, 2003, 2010, 2031, 2032, 2036, 2038, 2039, 2043, 2088, 2102, 2103, 2105, 2124, and 2175 of, and to add Section 2176 to, the Financial Code, relating to money transmission.

LEGISLATIVE COUNSEL'S DIGEST

AB 2209, as amended, Dickinson. Money Transmission Act.

Existing law, the Money Transmission Act, provides for the regulation of money transmissions and, unless an exemption applies, requires the licensure by the Commissioner of Business Oversight of persons, including corporations and limited liability companies, to engage in this activity. Existing law declares the need to regulate money transmission businesses in the state, to maintain public confidence in financial institutions doing business in this state, and to preserve the health, safety, and general welfare of the people of California. Under existing law, a licensure under the act is required to file various reports with the commissioner with specified information, including the total volume of activities, number of transactions conducted and outstanding money transmissions in California and the United States in a given calendar year quarter, as specified. It is a felony to make a false statement, misrepresentation, or false certification in a record filed or required to be maintained under the act, or to engage in an activity for which a license is required without being licensed or exempt from licensure.

This bill would revise the definition of money transmission for purposes of the act, by deleting the component of the definition involving receipt of money for transmission and replacing it with a third party’s acceptance of currency, funds, or other value from a payor and delivery of the currency, funds, or other value to a payee. The bill would exclude from this definition transactions in which the recipient of the currency, funds, or other value is an agent of the payee, as specified. The bill would revise and reorganize various provisions of the act relating to, among other things, the definition of *other* relevant terms under the act, and the required contents of license applications and customer receipts. The bill would require that the report described above also include whether an outstanding money transmission was conducted via mobile or other electronic application. By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

This bill would include legislative declarations relating to the expansion of money transmission services to include the use of mobile applications, alternative point of sale systems, and other consumer payment systems. The bill would authorize the commissioner to exercise any power set forth in the act with respect to a money transmission business, if necessary for the general welfare of the public, regardless of the licensure status of the money transmission business. The bill would revise provisions relating to the commissioner’s authority to provide guidance to prospective applicants for a license to operate money transmission business.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

- 1 SECTION 1. Section 2001 of the Financial Code is amended
- 2 to read:
- 3 2001. The Legislature finds and declares all of the following:
- 4 (a) Money transmission businesses conduct a significant amount
- 5 of business in this state and technological advances are occurring
- 6 in the provision of money transmission services, which have

1 expanded money transmission to include the use of mobile
2 applications, alternative point of sale systems, and other consumer
3 payment systems.

4 (b) Persons who use money transmission businesses in this state
5 use those businesses for, among other purposes, paying for the
6 necessities of life and transmitting money to family members.

7 (c) The failure of money transmission businesses to fulfill their
8 obligations would cause loss to consumers, disrupt the payments
9 mechanism in this state, undermine public confidence in financial
10 institutions doing business in this state, and adversely affect the
11 health, safety, and general welfare of persons in this state.

12 (d) To protect the interests of consumers of money transmission
13 businesses in this state, to maintain public confidence in financial
14 institutions doing business in this state, and to preserve the health,
15 safety, and general welfare of the people of this state, it is necessary
16 to regulate money transmission businesses in this state.

17 SEC. 2. Section 2003 of the Financial Code is amended to read:

18 2003. For purposes of this division, the following definitions
19 shall apply:

20 (a) “Affiliate,” when used with respect to a specified person,
21 means any person controlling, controlled by, or under common
22 control with, that specified person, directly or indirectly through
23 one or more intermediaries. For purposes of subdivisions (q) and
24 (v), a specified person is affiliated with another person if that
25 person controls, is controlled by, or under common control through
26 the ownership directly or indirectly of shares or equity securities
27 possessing more than 50 percent of the voting power of that
28 specified person.

29 (b) “Agent” means a person that is not itself licensed as a money
30 transmitter in California and provides money transmission in
31 California on behalf of the licensee, provided that the licensee
32 becomes liable for the money transmission from the time money
33 or monetary value is received by that person. However, “agent”
34 does not include any officer or employee of the licensee when
35 acting as such at an office of a licensee.

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

38 (d) “Average daily outstanding” means the amount of
39 outstanding money transmission obligations in California at the

1 end of each day in a given period of time, added together, and
2 divided by the total number of days in that period of time.

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

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

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

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

13 (g) “Commissioner” means the Commissioner of Business
14 Oversight.

15 (h) “Control” has the meaning set forth in Section 1250.

16 (i) “Day” means calendar day.

17 (j) “In California” or “in this state” means physically located
18 in California, or with, to, or from persons located in California.

19 (k) “Issue” and “issuer” mean, with regard to a payment
20 instrument, the entity that is the maker or drawer of the instrument
21 in accordance with the California Commercial Code and is liable
22 for payment. With regard to stored value, “issue” and “issuer”
23 mean the entity that is liable to the holder of stored value and has
24 undertaken or is obligated to pay the stored value. Only a licensee
25 may issue stored value or payment instruments.

26 (l) “Licensee” means a corporation or limited liability company
27 licensed under this division.

28 (m) “Material litigation” means litigation that according to
29 United States generally accepted accounting principles is
30 significant to an applicant’s or a licensee’s financial health and
31 would be required to be disclosed in the applicant’s or licensee’s
32 annual audited financial statements, report to shareholders, or
33 similar records.

34 (n) “Monetary value” means a medium of exchange, whether
35 or not redeemable in money.

36 (o) “Money” means a medium of exchange that is authorized
37 or adopted by the United States or a foreign government. The term
38 includes a monetary unit of account established by an
39 intergovernmental organization or by agreement between two or
40 more governments.

1 (p) “Money transmission” means any of the following:

2 (1) Selling or issuing payment instruments.

3 (2) Selling or issuing stored value.

4 (3) (A) A third party’s acceptance of currency, funds, or other
5 value from a payor and delivery of the currency, funds, or other
6 value to the payee. “Money transmission” does not include a
7 transaction in which the recipient of the currency, funds, or other
8 value is an agent of the payee, and delivery of the funds to the
9 agent satisfies the payor’s obligation to the payee.

10 (B) For purposes of this paragraph, “agent” has the same
11 meaning as that term is defined in Section 2295 of the Civil Code.

12 (C) For purposes of this paragraph, “payee” means the intended
13 recipient of currency, funds, or other value from a payor.

14 (q) “Outstanding,” with respect to payment instruments and
15 stored value, means issued or sold by the licensee in the United
16 States and not yet paid or refunded by the licensee, or issued or
17 sold on behalf of the licensee in the United States by its agent and
18 reported as sold, but not yet paid or refunded by the licensee.
19 “Outstanding,” with respect to receiving money for transmission
20 means all money or monetary value received in the United States
21 for transmission by the licensee or its agents but not yet paid to
22 the beneficiaries or refunded to the person from whom the money
23 or monetary value was received. All outstanding money
24 transmission of a licensee is and shall remain a liability of the
25 licensee until it is no longer outstanding.

26 (r) “Payment instrument” means a check, draft, money order,
27 traveler’s check, or other instrument for the transmission or
28 payment of money or monetary value, whether or not negotiable.
29 The term does not include a credit card voucher, letter of credit,
30 or any instrument that is redeemable by the issuer for goods or
31 services provided by the issuer or its affiliate.

32 (s) “Person” means an individual, corporation, business trust,
33 estate, trust, partnership, proprietorship, syndicate, limited liability
34 company, association, joint venture, government, governmental
35 subdivision, agency or instrumentality, public corporation or joint
36 stock company, or any other organization or legal or commercial
37 entity, provided, however, that “person,” when used with respect
38 to acquiring control of or controlling a specified person, includes
39 any combination of two or more persons acting in concert.

1 (t) “Receiving money for transmission” or “money received for
 2 transmission” means receiving money or monetary value in the
 3 United States for transmission within or outside the United States
 4 by electronic or other means. The term does not include sale or
 5 issuance of payment instruments and stored value.

6 (u) “Record” means information that is inscribed on a tangible
 7 medium or that is stored in an electronic or other medium and is
 8 retrievable in perceivable form.

9 (v) “State” means a state of the United States, the District of
 10 Columbia, Puerto Rico, the United States Virgin Islands, or any
 11 territory or insular possession subject to the jurisdiction of the
 12 United States.

13 (w) “Stored value” means monetary value representing a claim
 14 against the issuer that is stored on an electronic or digital medium
 15 and evidenced by an electronic or digital record, and that is
 16 intended and accepted for use as a means of redemption for money
 17 or monetary value or payment for goods or services. The term does
 18 not include a credit card voucher, letter of credit, or any stored
 19 value that is only redeemable by the issuer for goods or services
 20 provided by the issuer or its affiliate, except to the extent required
 21 by applicable law to be redeemable in cash for its cash value.

22 (x) “Traveler’s check” means an instrument that meets all of
 23 the following:

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

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

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

31 SEC. 3. Section 2010 of the Financial Code is amended to read:

32 2010. This division does not apply to the following:

33 (a) The United States or a department, agency, or instrumentality
 34 thereof, including any federal reserve bank and any federal home
 35 loan bank.

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

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

1 (d) A commercial bank or industrial bank, the deposits of which
2 are insured by the Federal Deposit Insurance Corporation or its
3 successor, or any foreign (other nation) bank that is licensed under
4 Chapter 20 (commencing with Section 1750) or that is authorized
5 under federal law to maintain a federal agency or federal branch
6 office in this state; a trust company licensed pursuant to Section
7 1042 or a national association authorized under federal law to
8 engage in a trust banking business; an association or federal
9 association, as defined in Section 5102, the deposits of which are
10 insured by the Federal Deposit Insurance Corporation or its
11 successor; and any federally or state chartered credit union, with
12 an office in California, the member accounts of which are insured
13 or guaranteed as provided in Section 14858.

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

19 (f) A board of trade designated as a contract market under the
20 federal Commodity Exchange Act (7 U.S.C. Sec. 1 et seq.) or a
21 person that, in the ordinary course of business, provides clearance
22 and settlement services for a board of trade to the extent of its
23 operation as or for such a board.

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

28 (h) An operator of a payment system to the extent that it provides
29 processing, clearing, or settlement services, between or among
30 persons excluded by this section, in connection with wire transfers,
31 credit card transactions, debit card transactions, stored value
32 transactions, automated clearing house transfers, or similar funds
33 transfers, to the extent of its operation as such a provider.

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

37 (j) A person that delivers wages or salaries on behalf of
38 employers to employees or facilitates the payment of payroll taxes
39 to state and federal agencies, makes payments relating to employee
40 benefit plans, makes distribution of other authorized deductions

1 from employees' wages or salaries, or transmits other funds on
2 behalf of an employer in connection with transactions related to
3 employees. Notwithstanding this subdivision, a person described
4 herein that offers money transmission services or provides stored
5 value cards directly to individual customers shall comply with this
6 division to the extent of that activity.

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

9 SEC. 4. Section 2031 of the Financial Code is amended to read:
10 2031. Only the following persons may apply for or be issued
11 a license:

12 (a) A corporation or limited liability company organized under
13 the laws of this state.

14 (b) A corporation, other than a corporation organized under the
15 laws of this state, that is qualified to transact intrastate business in
16 this state under Chapter 21 (commencing with Section 2100) of
17 Division 1 of Title 1 of the Corporations Code.

18 (c) A limited liability company, other than a limited liability
19 company organized under the laws of this state, that is qualified
20 to transact intrastate business in this state under Article 8
21 (commencing with Section 17708.01) of the Corporations Code,
22 except a limited liability company that is organized outside the
23 United States shall not be issued a license.

24 SEC. 5. Section 2032 of the Financial Code is amended to read:

25 2032. (a) An applicant for licensure under this division shall
26 pay to the commissioner a nonrefundable fee of five thousand
27 dollars (\$5,000).

28 (b) An applicant for a license under this division shall do so in
29 a form and in a medium prescribed by the commissioner by order
30 or regulation. The application shall state or contain all of the
31 following:

32 (1) The legal name and residential business address of the
33 applicant and any fictitious or trade name used by the applicant in
34 conducting its business.

35 (2) A list of any criminal convictions of the applicant and any
36 material litigation in which the applicant has been involved in the
37 10-year period next preceding the submission of the application.

38 (3) A description of any money transmission services previously
39 provided by the applicant and the money transmission services
40 that the applicant seeks to provide in this state.

- 1 (4) A list of the applicant’s proposed agents and the locations
2 in this state where the applicant and its agents propose to engage
3 in money transmission.
- 4 (5) A list of other states in which the applicant is licensed to
5 engage in money transmission and any license revocations,
6 suspensions, or other disciplinary action taken against the applicant
7 in another state.
- 8 (6) Information concerning any bankruptcy or receivership
9 proceedings affecting the licensee.
- 10 (7) A sample form of payment instrument or instrument upon
11 which stored value is recorded, if applicable.
- 12 (8) A sample form of receipt for transactions that involve money
13 received for transmission.
- 14 (9) The name and address of any bank through which the
15 applicant’s payment instruments and stored value will be paid.
- 16 (10) A description of the source of money and credit to be used
17 by the applicant to provide money transmission services.
- 18 (11) The date of the applicant’s incorporation or formation and
19 the state or country of incorporation or formation.
- 20 (12) A certificate of good standing from the state or country in
21 which the applicant is incorporated or formed.
- 22 (13) A description of the structure or organization of the
23 applicant, including any parent or subsidiary of the applicant, and
24 whether any parent or subsidiary is publicly traded.
- 25 (14) The legal name, any fictitious or trade name, all business
26 and residential addresses, and the employment, in the 10-year
27 period next preceding the submission of the application, of each
28 executive officer, manager, director, or person that has control, of
29 the applicant.
- 30 (15) A list of any criminal convictions and material litigation
31 in which any executive officer, manager, director, or person in
32 control, of the applicant has been involved in the 10-year period
33 next preceding the submission of the application.
- 34 (16) A copy of the applicant’s audited financial statements for
35 the most recent fiscal year and, if available, for the two-year period
36 next preceding the submission of the application.
- 37 (17) A copy of the applicant’s unconsolidated financial
38 statements for the current fiscal year, whether audited or not, and,
39 if available, for the two-year period next preceding the submission
40 of the application.

1 (18) If the applicant is publicly traded, a copy of the most recent
2 report filed with the United States Securities and Exchange
3 Commission under Section 13 of the federal Securities Exchange
4 Act of 1934 (15 U.S.C. Sec. 78m).

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

6 (A) A corporation publicly traded in the United States, a copy
7 of audited financial statements for the parent corporation for the
8 most recent fiscal year or a copy of the parent corporation's most
9 recent report filed under Section 13 of the federal Securities
10 Exchange Act of 1934 (15 U.S.C. Sec. 78m) and, if available, for
11 the two-year period next preceding the submission of the
12 application.

13 (B) A corporation publicly traded outside the United States, a
14 copy of similar documentation filed with the regulator of the parent
15 corporation's domicile outside the United States.

16 (20) The name and address of the applicant's registered agent
17 in this state.

18 (21) The applicant's plan for engaging in money transmission
19 business, including without limitation three years of pro forma
20 financial statements.

21 (22) Any other information the commissioner requires with
22 respect to the applicant.

23 (c) The commissioner may waive any of the information
24 required under subdivision (b) or permit an applicant to submit
25 other information instead of the required information.

26 SEC. 6. Section 2036 of the Financial Code is amended to read:

27 2036. The commissioner may impose on any authorization,
28 approval, license, or order issued pursuant to this division any
29 conditions that are necessary for the safety and soundness of the
30 licensee, or necessary to maintain or enhance consumer protection.

31 SEC. 7. Section 2038 of the Financial Code is amended to read:

32 2038. Fees shall be paid to, and collected by, the commissioner,
33 as follows:

34 (a) The fee for filing an application for a license is five thousand
35 dollars (\$5,000), as provided in subdivision (a) of Section 2032.

36 (b) The fee for filing an application for approval to acquire
37 control of a licensee is three thousand five hundred dollars
38 (\$3,500).

39 (c) A licensee shall pay annually on or before July 1, a licensee
40 fee of two thousand five hundred dollars (\$2,500).

1 (d) A licensee shall pay annually on or before July 1, one
2 hundred twenty-five dollars (\$125) for each licensee branch office
3 in this state.

4 (e) A licensee shall pay annually on or before July 1, twenty-five
5 dollars (\$25) for each agent branch office in this state.

6 (f) Whenever the commissioner examines a licensee or any
7 agent of a licensee, the licensee shall pay, within 10 days after
8 receipt of a statement from the commissioner, a fee of seventy-five
9 dollars (\$75) per hour for each examiner engaged in the
10 examination plus, if it is necessary for any examiner engaged in
11 the examination to travel outside this state, the travel expenses of
12 the examiner.

13 (g) Whenever the commissioner examines an applicant, the
14 applicant shall pay, within 10 days after receipt of a statement
15 from the commissioner, a fee of seventy-five dollars (\$75) per
16 hour for each examiner engaged in the examination plus, if it is
17 necessary for any examiner engaged in the examination to travel
18 outside this state, the travel expenses of the examiner.

19 (h) Each fee for filing an application shall be paid at the time
20 the application is filed with the commissioner. No fee for filing
21 an application shall be refundable, regardless of whether the
22 application is approved, denied, or withdrawn.

23 SEC. 8. Section 2039 of the Financial Code is amended to read:

24 2039. (a) The commissioner may by order or regulation grant
25 exemptions from this section in cases where the commissioner
26 finds that the requirements of this section are not necessary or may
27 be duplicative.

28 (b) In addition to any other reports as may be required pursuant
29 to Sections 453, 454, and 455, each licensee shall, within 90 days
30 after the end of each fiscal year, or within any extended time as
31 the commissioner may prescribe, file with the commissioner an
32 audit report for the fiscal year that shall comply with all of the
33 following provisions:

34 (1) The audit report shall contain audited financial statements
35 of the licensee for or as of the end of the fiscal year prepared in
36 accordance with United States generally accepted accounting
37 principles and any other information as the commissioner may
38 require.

39 (2) The audit report shall be based upon an audit of the licensee
40 conducted in accordance with United States generally accepted

1 auditing standards and any other requirements as the commissioner
2 may prescribe.

3 (3) The audit report shall be prepared by an independent certified
4 public accountant or independent public accountant who is not
5 unsatisfactory to the commissioner.

6 (4) The audit report shall include or be accompanied by a
7 certificate of opinion of the independent certified public accountant
8 or independent public accountant that is satisfactory in form and
9 content to the commissioner. If the certificate or opinion is
10 qualified, the commissioner may order the licensee to take any
11 action as the commissioner may find necessary to enable the
12 independent or certified public accountant or independent public
13 accountant to remove the qualification.

14 (c) Each licensee shall, not more than 45 days after the end of
15 each calendar year quarter, or within a longer period as the
16 commissioner may by regulation or order specify, file with the
17 commissioner a report containing all of the following:

18 (1) Financial statements, including balance sheet, income
19 statement, statement of changes in shareholders' equity, and
20 statement of cashflows, for, or as of the end of, that calendar year
21 quarter, verified by two of the licensee's principal officers. The
22 verification shall state that each of the officers making the
23 verification has a personal knowledge of the matters in the report
24 and that each of them believes that each statement on the report is
25 true.

26 (2) For issuers and sellers of payment instruments and stored
27 value, a schedule of eligible securities owned by the licensee
28 pursuant to Section 2081.

29 (3) Other information as the commissioner may by regulation
30 or order require.

31 (d) Each licensee, not more than 45 days after the end of each
32 calendar year quarter, shall file with the commissioner a report
33 containing all of the following:

34 (1) The current address of each branch office of the licensee in
35 this state. If a branch office was opened or closed during the
36 calendar year quarter, the date it was opened or closed. If a branch
37 office was relocated during the calendar year quarter, the addresses
38 of the old and new locations and the date of relocation.

39 (2) The name of each person who acted as an agent in this state
40 of the licensee during the calendar year quarter and the address

1 for each agent branch office. If a person was appointed or
2 terminated as an agent during the calendar year quarter, the date
3 of appointment or termination. If an agent branch office relocated,
4 the addresses for the old and new locations and the date of
5 relocation.

6 (3) The total volume of activities, number of transactions
7 conducted, and outstanding money transmission obligations in
8 California under this division and in the United States in the
9 calendar year quarter categorized by type of money transmission,
10 and whether the transmission was conducted via mobile or other
11 electronic application. For money received for transmission, a
12 report of the average daily outstanding transmission liabilities in
13 California, and, if applicable, a schedule of each foreign country
14 to which money was sent, along with the total amount of money
15 sent to that foreign country in that calendar year quarter. For
16 payment instruments and stored value, a report of the average daily
17 outstanding payment instruments and stored value liabilities in
18 California in that calendar year quarter.

19 (4) Other information as the commissioner may by regulation
20 or order require.

21 (e) Each licensee shall file with the commissioner other reports
22 as and when the commissioner may by regulation or order require.

23 SEC. 9. Section 2043 of the Financial Code is amended to read:

24 2043. (a) On or before April 1, 2013, and annually thereafter,
25 each licensee shall provide its agents under contract with training
26 materials on recognizing elder or dependent adult financial abuse,
27 and how to appropriately respond if the agent suspects that he or
28 she is being asked to engage in money transmission for a fraudulent
29 transaction involving an elder or dependent adult.

30 (b) To ensure that agents that are newly appointed by licensees
31 pursuant to Section 2060 receive the training materials described
32 in subdivision (a) in a timely manner, each licensee shall provide
33 those materials to any newly appointed agent no later than one
34 month following the appointment of that agent.

35 (c) This section shall not apply to licensees that are engaged
36 solely in selling or issuing stored value pursuant to paragraph (2)
37 of subdivision (p) of Section 2003. Licensees that engage in money
38 transmission activities pursuant to paragraph (1) or (3) of that
39 subdivision, shall be subject to this section only with respect to
40 their agents under contract for activities described in those

1 paragraphs. Additionally, this section shall not apply to licensees
2 who exclusively offer their services via an Internet Web site, or
3 mobile electronic application.

4 SEC. 10. Section 2088 of the Financial Code is amended to
5 read:

6 2088. (a) The commissioner may by regulation or order declare
7 a credit rating agency to be an eligible securities rating service if
8 the commissioner finds the following with respect to the securities
9 rating service:

10 (1) It has been continuously engaged in the business of rating
11 securities for a period of not less than three years.

12 (2) It is competent to rate securities and is nationally recognized
13 for rating securities in a competent manner.

14 (3) It publishes its ratings of securities on a nationwide basis.

15 (b) With respect to this division “eligible securities rating
16 service” means any credit rating agency that the commissioner by
17 regulation or order declared to be an eligible securities ratings
18 service.

19 SEC. 11. Section 2102 of the Financial Code is amended to
20 read:

21 2102. (a) Every licensee or its agent shall refund to the
22 customer within 10 days of receipt of the customer’s written request
23 for a refund any and all money received for transmission unless
24 any of the following occurs:

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

27 (2) Instructions have been given committing an equivalent
28 amount of money to the person designated by the customer within
29 10 days of the date of the receipt of the money from the customer.

30 (3) The customer instructs the licensee to transmit the money
31 at a time beyond 10 days. If the customer gives instructions as to
32 when the money shall be forwarded or transmitted and the moneys
33 have not yet been forwarded or transmitted, the licensee or its
34 agent shall refund the customer’s money within 10 days of receipt
35 of the customer’s written request for a refund.

36 (4) ~~Refund~~ *The refund* would violate law.

37 (b) If a customer’s instructions as to when the money shall be
38 forwarded or transmitted are not complied with and the money has
39 not yet been forwarded or transmitted, the customer has a right to
40 a refund of his or her money. If a customer does not receive his or

1 her refund, a cause of action under this section may be brought in
2 small claims court if it does not exceed the jurisdiction of that
3 court, or in any other appropriate court. The customer shall be
4 entitled to recover each of the following:

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

7 (2) A penalty in an amount not to exceed one thousand dollars
8 (\$1,000). The court shall award the prevailing party costs and
9 attorney's fees.

10 SEC. 12. Section 2103 of the Financial Code is amended to
11 read:

12 2103. (a) In the case of money received for transmission, the
13 licensee or its agent shall give the sender or customer a receipt at
14 the time of the transaction.

15 (1) The receipt shall contain the following information, as
16 applicable:

17 (A) The name of the sender.

18 (B) The name of the designated recipient.

19 (C) The date of the transaction, which is the day the customer
20 funds the money transmission.

21 (D) The name of the licensee.

22 (E) The amount to be transferred to the designated recipient, in
23 the currency in which the money transmission is funded, using the
24 term "Transfer Amount" or a substantially similar term.

25 (F) Any fees and taxes imposed on the money transmission by
26 the licensee or its agent which are payable or have been paid by
27 the sender, in the currency in which the money transmission is
28 funded, using the terms "transfer fees" for fees and "transfer taxes"
29 for taxes, or substantially similar terms.

30 (G) The total amount of the transaction, which is the sum of
31 subparagraphs (E) and (F), in the currency in which the money
32 transmission is funded, using the term "total" or a substantially
33 similar term.

34 (H) The exchange rate, if any, used by the licensee or its agent
35 for the money transmission, rounded consistently for each currency
36 to no fewer than two decimal places and no more than four decimal
37 places, using the term "exchange rate" or a substantially similar
38 term.

39 (I) For all transmissions, other than transmissions related to
40 e-commerce transactions, the amount that will be received by the

1 designated recipient, in the currency in which the funds will be
 2 received, using the term “total to recipient” or a substantially
 3 similar term. For transmissions related to e-commerce transactions,
 4 the amount that will be received by the designated recipient before
 5 any fees and taxes imposed on the money transmission by the
 6 licensee or its agent and payable by the designated recipient are
 7 deducted, using the term “total to recipient” or a substantially
 8 similar term. These fees and taxes shall be disclosed to the
 9 designated recipient. The disclosure of fees and taxes payable by
 10 the designated recipient, which need not be disclosed to the sender,
 11 shall be disclosed as part of a separate written agreement between
 12 the licensee and the designated recipient.

13 (2) (A) In addition to the disclosures set forth in paragraph (1),
 14 the receipt shall either include or have attached a conspicuous
 15 statement as follows:

16
 17
 18

~~RIGHT~~ “RIGHT TO REFUND

19
 20 “~~You~~, *You*, the customer, are entitled to a refund of the money to be transmitted
 21 as the result of this agreement if _____ (name of licensee) does not forward
 22 the money received from you within 10 days of the date of its receipt, or does
 23 not give instructions committing an equivalent amount of money to the person
 24 designated by you within 10 days of the date of the receipt of the funds from
 25 you unless otherwise instructed by you.

26
 27 If your instructions as to when the moneys shall be forwarded or transmitted
 28 are not complied with and the money has not yet been forwarded or transmitted,
 29 you have a right to a refund of your money.

30
 31 If you want a refund, you must mail or deliver your written request to _____
 32 (name of licensee) at _____ (mailing address of licensee). If you do not receive
 33 your refund, you may be entitled to your money back plus a penalty of up to
 34 \$1,000 and attorney’s fees pursuant to Section 2102 of the California Financial
 35 Code.”

36
 37

38 (B) The right to refund statement set forth in subparagraph (A)
 39 is not required to be included on receipts involving transactions
 40 where the sender is a commercial entity, transactions that involve

1 entities of a type listed in subdivisions (a), (b), and (c) of Section
2 2010, or e-commerce transactions where the customer sends a
3 payment for goods or services.

4 (3) The receipt required by this section shall be made in English
5 and in the language principally used by that licensee or that agent
6 to advertise, solicit, or negotiate, either orally or in writing, at that
7 branch office, if other than English. For transactions that do not
8 occur in a branch office, the receipt shall be made in English and
9 in the language principally used by that licensee or that agent to
10 advertise, solicit, or negotiate money transmission, either orally
11 or in writing.

12 (4) The receipt required by this subdivision may be provided
13 electronically for transactions that are initiated electronically or
14 in which a customer agrees to receive an electronic receipt.

15 (5) Disclosures in the receipt required by this subdivision shall
16 be in a minimum 8-point font, except for receipts provided via
17 mobile phone or text message.

18 (b) If window and exterior signs concerning the rates of
19 exchange for money received for transmission are used, they shall
20 clearly state in English and in the same language principally used
21 by the licensee or any agent of the licensee to advertise, solicit, or
22 negotiate, either orally or in writing, at that branch office if other
23 than English, the rate of exchange for exchanging the currency of
24 the United States for foreign currency. If an interior sign or any
25 advertising is used that quotes exchange rates, it shall, in addition
26 to clearly stating the rates of exchange for exchanging the currency
27 of the United States for foreign currency, also state all commissions
28 and fees charged on all such transactions.

29 (c) At each branch office, there shall be disclosed the exchange
30 rates, fees, and commissions charged in English and in the same
31 language principally used by the licensee or any agent of the
32 licensee to advertise, solicit, or negotiate, either orally or in writing,
33 with respect to money received for transmission at that branch
34 office. At each branch office, there shall be signage clearly
35 identifying the name of the licensee as well as any trade names
36 used by the licensee at that branch office. In the event that a
37 licensee or agent conducts money transmission activity via an
38 Internet Web site or mobile application that is not in a branch
39 office, the commissioner may authorize an alternative disclosure
40 meeting the requirements of this section. Any Internet Web site

1 through which a licensee conducts money transmission shall clearly
2 identify the name of the licensee as well as any trade names used
3 by the licensee on the Internet Web site.

4 (d) If the customer does not specify at the time the money is
5 presented to the licensee or its agent the country to which the
6 money is to be transmitted, the rate of exchange for the transaction
7 is not required to be set forth on the receipt. If the customer does
8 specify at the time the money is presented to the licensee or its
9 agent the country to which the money is to be transmitted but the
10 specified country's laws require the rate of exchange for the
11 transaction to be determined at the time the transaction is paid out
12 to the intended recipient, the rate of exchange for the transaction
13 is not required to be set forth on the receipt.

14 SEC. 13. Section 2105 of the Financial Code is amended to
15 read:

16 2105. (a) Each licensee or agent shall prominently post on the
17 premises of each branch office that conducts money transmission
18 a notice stating that:

19
20 "If you have complaints with respect to any aspect of the money
21 transmission activities conducted at this location, you may contact the
22 California Department of ~~Financial Institutions~~ *Business Oversight* at its
23 toll-free telephone number, 1-800-622-0620, by ~~e-mail~~ *email* at
24 consumer.complaint@dfi.ca.gov, or by mail at Department of ~~Financial~~
25 ~~Institutions~~, *Business Oversight*, Consumer Services, 1810 13th Street,
26 Sacramento, CA 95811."
27

28 (b) The commissioner may by order or regulation modify the
29 content of the notice required by this section. This notice shall be
30 printed in English and in the same language principally used by
31 the licensee or any agent of the licensee to advertise, solicit, or
32 negotiate either orally or in writing, with respect to money
33 transmission at that branch office. The information required in this
34 notice shall be clear, legible, and in letters not less than one-half
35 inch in height. The notice shall be posted in a conspicuous location
36 in the unobstructed view of the public within the premises. The
37 licensee shall provide to each of its agents the notice required by
38 this section. In those locations operated by an agent, the agent, and
39 not the licensee, shall be responsible for the failure to properly
40 post the required notice.

1 (c) In the event that a licensee or agent conducts money
2 transmission activity via an Internet Web site or mobile application
3 that is not in a branch office, the commissioner may authorize an
4 alternative form of the notice required in subdivision (a).

5 SEC. 14. Section 2124 of the Financial Code is amended to
6 read:

7 2124. (a) A licensee shall maintain the following records for
8 determining its compliance with this division for at least three
9 years:

10 (1) A record of each payment instrument or stored value
11 obligation sold.

12 (2) A general ledger posted at least monthly containing all asset,
13 liability, capital, income, and expense accounts.

14 (3) Bank statements and bank reconciliation records.

15 (4) Records of outstanding payment instruments and stored
16 value obligations.

17 (5) Records of each payment instrument and stored-value
18 obligation paid within the three-year period.

19 (6) A list of the last known names and addresses of all of the
20 licensee's agents and their branch offices.

21 (7) Any other records the commissioner reasonably requires by
22 order or regulation.

23 (b) A licensee or its agent shall maintain records of any receipts
24 provided pursuant to Section 2102 for six months or a longer period
25 of time specified in the contract between the licensee and its agent.

26 (c) The items specified in subdivisions (a) and (b) may be
27 maintained in any form of record.

28 (d) Records may be maintained outside this state if they are
29 made available to the commissioner on seven days' notice that is
30 sent in a record.

31 (e) If records not required to be maintained in English pursuant
32 to Section 456 are in a language other than English, the licensee
33 shall provide records translated into English within seven days'
34 notice that is sent in a record.

35 (f) Each licensee shall maintain any other records required by
36 the commissioner.

37 SEC. 15. Section 2175 of the Financial Code is amended to
38 read:

39 2175. The commissioner may offer informal guidance to any
40 prospective applicant for a license under this division, regarding

1 the conditions of licensure that may be applied to that person. The
2 commissioner shall inform any applicant that requests that guidance
3 of the minimum net worth, and other licensing requirements, that
4 will be required of that applicant, based on the information
5 provided by the applicant concerning its plan to conduct business
6 under this division, and the factors used to make that determination
7 as described in Section 2040.

8 SEC. 16. Section 2176 is added to the Financial Code, to read:

9 2176. At any time, if the commissioner deems it necessary for
10 the general welfare of the public, he or she may exercise any power
11 set forth in this division with respect to a money transmission
12 business, regardless of whether an application for a license has
13 been filed with the commissioner, a license has been issued, or, if
14 issued, the license has been surrendered, suspended, or revoked.

15 SEC. 17. No reimbursement is required by this act pursuant to
16 Section 6 of Article XIII B of the California Constitution because
17 the only costs that may be incurred by a local agency or school
18 district will be incurred because this act creates a new crime or
19 infraction, eliminates a crime or infraction, or changes the penalty
20 for a crime or infraction, within the meaning of Section 17556 of
21 the Government Code, or changes the definition of a crime within
22 the meaning of Section 6 of Article XIII B of the California
23 Constitution.