

SENATE FILE NO. SF0071

Licensing money transmitters.

Sponsored by: Senator(s) Hawks and Representative(s) Law

A BILL

for

1 AN ACT relating to trade and commerce; creating the Wyoming
 2 Money Transmitters Act to regulate and license money
 3 transmissions; providing requirements and fees; providing
 4 civil and criminal penalties; providing definitions;
 5 requiring reporting; providing for enforcement; providing
 6 for rulemaking; and providing for an effective date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 40-22-101 through 40-22-129 are
 11 created to read:

12

CHAPTER 22

13

WYOMING MONEY TRANSMITTERS ACT

14

15 **40-22-101. Short title.**

16

1 This act may be cited as the "Wyoming Money Transmitters
2 Act."

3

4 **40-22-102. Definitions.**

5

6 (a) As used in this act:

7

8 (i) "Applicant" means a person filing an
9 application for a license;

10

11 (ii) "Authorized delegate" means an entity
12 designated by the licensee to engage in the business of
13 transmitting money on behalf of a licensee;

14

15 (iii) "Commissioner" means the state banking
16 commissioner;

17

18 (iv) "Control" means the power to vote or
19 ownership of twenty-five percent (25%) or more of the
20 outstanding voting securities of a licensee or controlling
21 person. To determine the percentage of a licensee
22 controlled by any person, there shall be aggregated with
23 the person's interest the interest of any other person

1 controlled by such person or by any spouse, parent or child
2 of the person;

3

4 (v) "Controlling person" means any person in
5 control of a licensee;

6

7 (vi) "Division" means the division of banking;

8

9 (vii) "Electronic instrument" means a card or
10 other tangible object for the transmission or payment of
11 money which contains a microprocessor chip, magnetic stripe
12 or other means for the storage of information that is
13 prefunded and for which the value is decremented upon each
14 use, but does not include a card or other tangible object
15 that is redeemable by the issuer in goods or services;

16

17 (viii) "Executive officer" means the licensee's
18 president, chairman of the executive committee, senior
19 officer responsible for the licensee's business, chief
20 financial officer and any other person who performs similar
21 functions;

22

23 (ix) "Key shareholder" means any person, or
24 group of persons acting in concert, who is the owner of

1 twenty-five percent (25%) or more of any voting class of an
2 applicant's stock;

3

4 (x) "Licensee" means a person licensed under
5 this act;

6

7 (xi) "Material litigation" means any litigation
8 that according to generally accepted accounting principles,
9 is deemed significant to an applicant's or licensee's
10 financial health and is referenced in the applicant's or
11 licensee's annual audited financial statements, report to
12 shareholders or similar documents;

13

14 (xii) "Monetary value" means a medium of
15 exchange whether or not redeemable in money;

16

17 (xiii) "Money transmission" means to engage in
18 business to sell or issue payment instruments, stored value
19 or receive money or monetary value for transmission to a
20 location within or outside the United States by any and all
21 means, including but not limited to wire, facsimile or
22 electronic transfer;

23

1 (xiv) "Outstanding payment instrument" means any
2 payment instrument issued by the licensee which has been
3 sold in the United States directly by the licensee or any
4 payment instrument issued by the licensee which has been
5 sold by an authorized delegate of the licensee in the
6 United States, which has been reported to the licensee as
7 having been sold and which has not yet been paid by or for
8 the licensee;

9
10 (xv) "Payment instrument" means any electronic
11 or written check, draft, money order, travelers check or
12 other electronic or written instrument or order for the
13 transmission or payment of money, sold or issued to one (1)
14 or more persons, whether or not the instrument is
15 negotiable. The term "payment instrument" does not include
16 any credit card voucher, any letter of credit or any
17 instrument which is redeemable by the issuer in goods or
18 services;

19
20 (xvi) "Permissible investments" means:

21
22 (A) Cash;

23

1 (B) Certificates of deposit or other debt
2 obligations of a financial institution, either domestic or
3 foreign;

4
5 (C) Bills of exchange or time drafts drawn
6 on and accepted by a commercial bank, otherwise known as
7 bankers' acceptances, which are eligible for purchase by
8 member banks of the federal reserve system;

9
10 (D) Any investment bearing a rating of one
11 (1) of the three (3) highest grades as defined by a
12 nationally recognized organization that rates securities;

13
14 (E) Investment securities that are
15 obligations of the United States, its agencies or
16 instrumentalities, or obligations that are guaranteed fully
17 as to principal and interest of the United States, or any
18 obligations of any state, municipality or any political
19 subdivision thereof;

20
21 (F) Shares in a money market mutual fund,
22 interest bearing bills, notes or bonds, debentures or stock
23 traded on any national securities exchange or on a national
24 over the counter market, or mutual funds primarily composed

1 of such securities or a fund composed of one (1) or more
2 permissible investments as set forth in this paragraph;

3

4 (G) Any demand borrowing agreement made to
5 a corporation or a subsidiary of a corporation whose
6 capital stock is listed on a national exchange;

7

8 (H) Receivables which are due to a licensee
9 from its authorized delegates pursuant to a contract
10 described in W.S. 40-22-118 which are not past due or
11 doubtful of collection; or

12

13 (J) Any other investments or security
14 device approved by the commissioner.

15

16 (xvii) "Remit" means either to make direct
17 payment of the funds to the licensee or its representatives
18 authorized to receive those funds, or to deposit the funds
19 in a bank, credit union or savings and loan association or
20 other similar financial institution in an account specified
21 by the licensee;

22

23 (xviii) "Stored value" means monetary value that
24 is evidenced by an electronic record.

1

2 **40-22-103. License required.**

3

4 (a) With the exception of those persons exempt
5 pursuant to W.S. 40-22-104, on and after October 1, 2003,
6 no person shall engage in the business of money
7 transmission without a license. The division shall
8 regulate money transmitters and carry out the provisions of
9 this act.

10

11 (b) A person is engaged in the business of money
12 transmission if the person regularly advertises, offers or
13 provides services to Wyoming residents, through any medium
14 including, but not limited to, internet or other electronic
15 means.

16

17 (c) A licensee with a physical presence in this state
18 may conduct its business at one (1) or more locations,
19 directly or indirectly owned, or through one (1) or more
20 authorized delegates, or both, pursuant to a single license
21 granted to the licensee, provided that for each business
22 name, a separate license shall be required.

23

1 (d) Every licensee and authorized delegate shall
2 comply with the Bank Secrecy Act, 12 U.S.C. 1951 et seq.

3

4 (e) Authorized delegates of a licensee, acting within
5 the scope of authority conferred by a written contract as
6 described in W.S. 40-22-118 shall not be required to obtain
7 a license.

8

9 **40-22-104. Exemptions.**

10

11 (a) This act shall not apply to:

12

13 (i) The United States or any department, agency,
14 or instrumentality thereof;

15

16 (ii) The United States post office;

17

18 (iii) The state or any political subdivisions
19 thereof;

20

21 (iv) Banks, bank holding companies, credit
22 unions, building and loan associations, savings and loan
23 associations, savings banks or mutual banks organized under
24 the laws of any state or the United States provided that

1 they do not issue or sell payment instruments through
2 authorized delegates who are not banks, bank holding
3 companies, credit unions, building and loan associations,
4 savings and loan associations, savings banks or mutual
5 banks; and

6
7 (v) Electronic transfer of government benefits
8 for any federal, state or county governmental agency as
9 defined in Federal Reserve Board Regulation E by a
10 contractor for and on behalf of the United States or any
11 department, agency or instrumentality thereof, or any state
12 or any political subdivisions thereof.

13

14 **40-22-105. License requirements.**

15

16 (a) Each licensee shall at all times have a net worth
17 of not less than one hundred thousand dollars
18 (\$100,000.00), as calculated in accordance with generally
19 accepted accounting principles.

20

21 (b) Every corporate applicant at the time of filing
22 of an application for a license and at all times after a
23 license is issued, shall be in good standing in the state
24 of its incorporation. All noncorporate applicants shall at

1 the time of the filing of an application for a license and
2 at all times after a license is issued, be registered or
3 qualified to do business in the state.

4

5 **40-22-106. Bond or other security device.**

6

7 (a) Each application shall be accompanied by a surety
8 bond, irrevocable letter of credit or other similar
9 security device acceptable to the commissioner in the
10 amount of one hundred fifty thousand dollars (\$150,000.00).
11 The commissioner may increase the required amount of the
12 bond or security device to a maximum of five hundred
13 thousand dollars (\$500,000.00) upon the basis of the
14 impaired financial condition of a licensee as evidenced by
15 a reduction in net worth, financial losses or other
16 relevant criteria. The security device shall be in a form
17 satisfactory to the commissioner and shall run to the state
18 for the benefit of any claimants against the licensee to
19 secure the faithful performance of the obligations of the
20 licensee with respect to the receipt, handling,
21 transmission and payment of money in connection with the
22 sale and issuance of payment instruments or transmission of
23 money. In the case of a bond, the aggregate liability of
24 the surety in no event shall exceed the principal sum of

1 the bond. Claimants against the licensee may bring suit
2 directly on the security device or the commissioner may
3 bring suit on behalf of the claimants either in one (1)
4 action or in successive actions.

5

6 (b) In lieu of a security device or any portion of
7 the principal thereof as required by this section, the
8 licensee may deposit with the commissioner or with banks in
9 this state as the licensee may designate and the
10 commissioner may approve, cash, interest bearing stocks and
11 bonds, notes, debentures or other obligations of the United
12 States or any agency or instrumentality thereof, or
13 guaranteed by the United States, or of this state or a
14 political subdivision, or guaranteed by this state, to an
15 aggregate amount, based upon principal amount or market
16 value, whichever is lower, of not less than the amount of
17 the security device or portion thereof. The securities or
18 cash shall be deposited and held to secure the same
19 obligations as would the security device. The depositor
20 shall be entitled to receive all interest and dividends and
21 shall have the right with the approval of the commissioner,
22 to substitute other securities for those deposited, and
23 shall be required to do so on written order of the
24 commissioner made for good cause shown.

1

2 (c) The security device shall remain in effect until
3 cancellation, which may occur only after written notice to
4 the commissioner thirty (30) days prior to the effective
5 date of cancellation. Cancellation shall not affect any
6 liability incurred or accrued during the thirty (30) day
7 period.

8

9 (d) The security device shall remain in place for no
10 longer than five (5) years after the licensee ceases money
11 transmission operations in the state. The commissioner may
12 permit the security device to be reduced or eliminated
13 prior to the five (5) years to the extent that the amount
14 of the licensee's payment instruments outstanding in this
15 state are reduced. The commissioner may also permit a
16 licensee to substitute a letter of credit or other form of
17 security device acceptable to the commissioner for the
18 security device in place at the time the licensee ceases
19 money transmission operations in the state.

20

21 **40-22-107. Permissible investments and statutory**
22 **trust.**

23

1 (a) Each licensee shall at all times possess
2 permissible investments having an aggregate market value
3 calculated in accordance with generally accepted accounting
4 principles, of not less than the aggregate face amount of
5 all outstanding payment instruments and stored value issued
6 or sold by the licensee in the United States. This
7 requirement may be waived by the commissioner if the dollar
8 volume of a licensee's outstanding payment instruments and
9 stored value does not exceed the bond or other security
10 devices posted by the licensee pursuant to W.S. 40-22-106.

11

12 (b) Permissible investments even if commingled with
13 other assets of the licensee, shall be deemed by operation
14 of law to be held in trust for the benefit of the
15 purchasers and holders of the licensee's outstanding
16 payment instruments in the event of the bankruptcy of the
17 licensee.

18

19 **40-22-108. Application for license.**

20

21 (a) Each application for a license shall be made in
22 writing and in a form prescribed by the commissioner. Each
23 application shall include the following:

24

1 (i) The exact name of the applicant, the
2 applicant's principal address, any fictitious or trade name
3 used by the applicant in the conduct of its business and
4 the location of the applicant's business records;

5

6 (ii) The applicant's history of material
7 litigation and criminal convictions for the five (5) year
8 period prior to the date of the application;

9

10 (iii) A description of the activities conducted
11 by the applicant and a history of operations;

12

13 (iv) A description of the business activities in
14 which the applicant seeks to be engaged in the state;

15

16 (v) A list identifying the applicant's proposed
17 authorized delegates in the state, if any, at the time of
18 the filing of the license application;

19

20 (vi) A sample authorized delegate contract, if
21 applicable;

22

23 (vii) A sample form of payment instrument, if
24 applicable;

1

2 (viii) The location at which the applicant and
3 its authorized delegates, if any, propose to conduct the
4 licensed activities in the state; and

5

6 (ix) The name and address of the clearing bank
7 on which payment instruments will be drawn or through which
8 the payment instruments will be payable.

9

10 (b) If the applicant is a corporation, the applicant
11 shall also provide:

12

13 (i) The date of the applicant's incorporation
14 and state of incorporation;

15

16 (ii) A certificate of good standing from the
17 state in which the applicant was incorporated;

18

19 (iii) A description of the corporate structure
20 of the applicant, including the identity of any parent or
21 subsidiary of the applicant and the disclosure of whether
22 any parent or subsidiary is publicly traded on any stock
23 exchange;

24

1 (iv) The name, business and residence address
2 and employment history for the past five (5) years of the
3 applicant's executive officers and the officer or manager
4 who will be in charge of the applicant's licensed
5 activities in this state;

6
7 (v) The name, business and residence address,
8 and employment history for the period five (5) years prior
9 to the date of the application of any key shareholder of
10 the applicant;

11
12 (vi) The history of material litigation and
13 criminal convictions for the five (5) year period prior to
14 the date of the application of every executive officer or
15 key shareholder of the applicant;

16
17 (vii) A copy of the applicant's most recent
18 audited financial statement including balance sheet,
19 statement of income or loss, statement of changes in
20 shareholder equity and statement of changes in financial
21 position and if available, the applicant's audited
22 financial statements for the immediately preceding two (2)
23 year period. Provided, if the applicant is a wholly owned
24 subsidiary of another corporation, the applicant may submit

1 either the parent corporation's consolidated audited
2 financial statements for the current year and for the
3 immediately preceding two (2) year period or the parent
4 corporation's Form 10K reports filed with the United States
5 securities and exchange commission for the prior three (3)
6 years in lieu of the applicant's financial statements. If
7 the applicant is a wholly owned subsidiary of a corporation
8 having its principal place of business outside the United
9 States, similar documentation filed with the parent
10 corporation's non United States regulator may be submitted
11 to satisfy this provision; and

12

13 (viii) Copies of all filings, if any, made by
14 the applicant with the United States securities and
15 exchange commission or with a similar regulator in a
16 country other than the United States, within the year
17 preceding the date of filing of the application.

18

19 (c) If the applicant is not a corporation, the
20 applicant shall also provide:

21

22 (i) The name, business and residence address,
23 personal financial statement and employment history for the
24 past five (5) years, of each principal of the applicant and

1 the name, business and residence address and employment
2 history for the past five (5) years of any other person or
3 persons who will be in charge of the applicant's licensed
4 activities;

5

6 (ii) The place and date of the applicant's
7 registration or qualification to do business in this state;

8

9 (iii) The history of material litigation and
10 criminal convictions for the five (5) year period prior to
11 the date of the application for each individual having any
12 ownership interest in the applicant and each individual who
13 exercises supervisory responsibility with respect to the
14 applicant's activities; and

15

16 (iv) Copies of the applicant's audited financial
17 statements including balance sheet, statement of income or
18 loss and statement of changes in financial position for the
19 current year and if available, for the immediately
20 preceding two (2) year period.

21

22 (d) The commissioner is authorized for good cause
23 shown, to waive any requirement of this section with
24 respect to any license application or to permit a license

1 applicant to submit substituted information in its license
2 application in lieu of the information required by this
3 section.

4

5 **40-22-109. Application fee.**

6

7 Each application shall be accompanied by a nonrefundable
8 application fee not to exceed three thousand dollars
9 (\$3,000.00) for each license applied for, as set by rule of
10 the commissioner.

11

12 **40-22-110. Issuance of license.**

13

14 (a) After the applicant files an application, the
15 commissioner shall investigate the financial condition and
16 responsibility, financial and business experience,
17 character and general fitness of the applicant. The
18 commissioner may conduct an on site investigation of the
19 applicant, the reasonable cost of which shall be borne by
20 the applicant. If the commissioner finds that the
21 applicant's business will be conducted honestly, fairly and
22 in a manner commanding the confidence and trust of the
23 community and that the applicant has fulfilled the
24 requirements imposed by this act and has paid the required

1 application fee, the commissioner shall issue a license to
2 the applicant authorizing the applicant to engage in the
3 licensed activities in this state for a term of one (1)
4 year. If these requirements have not been met, the
5 commissioner shall deny the application in writing setting
6 forth the reasons for the denial.

7

8 (b) The commissioner shall approve or deny every
9 application for an original license within one hundred
10 twenty (120) days from the date a complete application is
11 submitted, provided the time period may be extended with
12 written consent of the applicant. The commissioner shall
13 notify the applicant of the date when the application is
14 deemed complete. In the absence of approval or denial of
15 the application within time period allowed or consented to,
16 the application is deemed approved and the commissioner
17 shall issue the license effective as of the first day after
18 the one hundred twenty (120) day or extended period has
19 elapsed.

20

21 (c) Any applicant aggrieved by a denial issued by the
22 commissioner under this section may at any time within
23 thirty (30) days from the date of receipt of written notice
24 of the denial request a hearing before the commissioner.

1

2

40-22-111. Renewal of license and annual report.

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(a) Every year on October 1 each licensee shall pay an annual renewal fee not to exceed two thousand dollars (\$2,000.00), plus not more than one hundred dollars (\$100.00) for each authorized delegate not to exceed seven thousand dollars (\$7,000.00), as set by rule of the commissioner.

(b) The renewal fee shall be accompanied by a report, in a form approved by the commissioner, which shall include:

(i) A copy of the licensee's most recent audited consolidated annual financial statement including balance sheet, statement of income or loss, statement of changes in shareholder's equity and statement of changes in financial position, or in the case of a licensee that is a wholly owned subsidiary of another corporation, the consolidated audited annual financial statement of the parent corporation may be filed in lieu of the licensee's audited annual financial statement;

1 (ii) For the most recent quarter for which data
2 is available prior to the date of the filing of the renewal
3 application, but in no event more than one hundred twenty
4 (120) days prior to the renewal date, the licensee shall
5 provide the number of payment instruments sold by the
6 licensee in the state, the dollar amount of those
7 instruments and the dollar amount of those instruments
8 currently outstanding;

9

10 (iii) Any material changes to any of the
11 information submitted by the licensee on its original
12 application which have not previously been reported to the
13 commissioner on any other report required to be filed under
14 this act;

15

16 (iv) A list of the licensee's permissible
17 investments;

18

19 (v) A list of the locations, if any, within this
20 state at which business regulated by this act is being
21 conducted by either the licensee or its authorized
22 delegates.

23

1 (c) A licensee that has not filed a renewal report or
2 paid its renewal fee by the renewal filing deadline and has
3 not been granted an extension of time to do so by the
4 commissioner, shall have its license suspended on the
5 renewal date. The licensee has thirty (30) days after its
6 license is suspended in which to file a renewal report and
7 pay the renewal fee.

8

9 **40-22-112. Licensee liability.**

10

11 A licensee's liability to any person for a money
12 transmission conducted on that person's behalf by the
13 licensee or an authorized delegate shall be limited to the
14 amount of money transmitted or the face amount of the
15 payment instrument or stored value purchased.

16

17 **40-22-113. Extraordinary reporting requirements.**

18

19 (a) Within fifteen (15) business days of the
20 occurrence of any one (1) of the events listed in this
21 subsection, a licensee shall file a written report with the
22 commissioner describing the event and its expected impact
23 on the licensee's activities in the state:

24

1 (i) Any material changes in information provided
2 in a licensee's application or renewal report;

3
4 (ii) The filing for bankruptcy or reorganization
5 by the licensee;

6
7 (iii) The institution of revocation or
8 suspension proceedings against the licensee by any state or
9 governmental authority with regard to the licensee's money
10 transmission activities;

11
12 (iv) Any felony indictment or conviction of the
13 licensee or any of its executive officers related to money
14 transmission activities.

15
16 **40-22-114. Changes in control of a licensee.**

17
18 (a) A licensee shall give the commissioner written
19 notice of a proposed change of control within fifteen (15)
20 business days after learning of the proposed change of
21 control.

22
23 (b) The commissioner may require the licensee to
24 provide additional information concerning the proposed

1 persons in control of the licensee. The additional
2 information shall be limited to the same types required of
3 the licensee or persons in control of the licensee as part
4 of its original license or renewal application.

5

6 (c) The licensee shall reapply and submit the
7 required fees established by rule, not to exceed three
8 thousand dollars (\$3,000.00) for a new license upon a
9 change in the control of the licensee as determined by the
10 commissioner. The license is not transferable nor
11 assignable to the new persons in control of the licensee.

12

13 (d) The following persons are exempt from the
14 requirements of subsections (a) through (c) of this
15 section, but the licensee shall notify the commissioner of
16 a change of control:

17

18 (i) A person that acts as a proxy for the sole
19 purpose of voting at a designated meeting of the security
20 holders or holders of voting interests of a licensee or
21 person in control of a licensee;

22

23 (ii) A person that acquires control of a
24 licensee by devise or descent;

1

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

6

7 (iv) A person that the commissioner by rule or
8 order exempts in the public interest.

9

10 (e) Subsection (a) of this section does not apply to
11 public offerings of securities.

12

13 (f) Before filing a request for approval to acquire
14 control, a person may request in writing a determination
15 from the commissioner as to whether the person would be
16 considered a person in control of a licensee upon
17 consummation of a proposed transaction. If the commissioner
18 determines that the person would not be a person in control
19 of a licensee, the commissioner shall enter an order to
20 that effect and the proposed person and transaction is not
21 subject to the requirements of subsections (a) through (c)
22 of this section.

23

24 **40-22-115. Examinations.**

1

2 (a) The commissioner may conduct examinations of
3 persons licensed under this act at intervals he deems
4 necessary to determine whether violations of this act and
5 other applicable laws, rules and regulations pertaining to
6 money transmissions are occurring and the frequency and
7 seriousness of the violations.

8

9 (b) Each licensee or person subject to examination or
10 investigation under this act shall pay to the commissioner
11 an amount assessed by the commissioner to cover the direct
12 and indirect cost of examinations or investigations
13 conducted pursuant to this section.

14

15 **40-22-116. Maintenance of records.**

16

17 (a) Each licensee shall make, keep and preserve the
18 following books, accounts and other records for a period of
19 five (5) years and these records shall be open to
20 inspection by the commissioner:

21

22 (i) A record of each payment instrument and
23 stored value sold;

24

1 (ii) A general ledger, posted at least monthly,
2 containing all assets, liability, capital, income and
3 expense accounts;

4

5 (iii) Bank statements and bank reconciliation
6 records;

7

8 (iv) Outstanding payment instruments and stored
9 value;

10

11 (v) Records of each payment instrument and
12 stored value paid;

13

14 (vi) A list of the names and addresses of all
15 authorized delegates; and

16

17 (vii) Any other records the commissioner
18 reasonably requires by rule.

19

20 (b) The records required under this section may be
21 maintained in photographic, electronic or other similar
22 form.

23

1 (c) Records may be maintained at a location other
2 than within this state so long as they are made accessible
3 to the commissioner upon seven (7) business days written
4 notice.

5

6 **40-22-117. Confidentiality of records; exception.**

7

8 (a) Except as provided in subsection (b) of this
9 section, all information or reports obtained by the
10 commissioner from an applicant, licensee or authorized
11 delegate are confidential.

12

13 (b) The commissioner may disclose confidential
14 information to officials and examiners in other states or
15 to federal regulatory authorities or to appropriate
16 prosecuting attorneys.

17

18 (c) This section does not prohibit the commissioner
19 from disclosing to the public a list of persons licensed
20 under this act or the aggregated financial data on those
21 licensees.

22

23 **40-22-118. Authorized delegate contracts.**

24

1 (a) A licensee shall designate an authorized delegate
2 by express written contract including the following:

3

4 (i) That the licensee appoints the person as its
5 delegate with authority to engage in money transmission on
6 behalf of the licensee;

7

8 (ii) That neither a licensee nor an authorized
9 delegate may authorize subdelegates without the written
10 consent of the commissioner; and

11

12 (iii) That authorized delegates are subject to
13 supervision and regulation by the commissioner.

14

15 **40-22-119. Authorized delegate conduct.**

16

17 (a) An authorized delegate shall not make any
18 fraudulent or false statement or misrepresentation to a
19 licensee or to the commissioner.

20

21 (b) All money transmission activities conducted by an
22 authorized delegate shall be in strict accord with the
23 licensee's written procedures provided to the authorized
24 delegate.

1

2 (c) An authorized delegate shall remit all money
3 owing to the licensee in accordance with the terms of the
4 contract between the licensee and the authorized delegate.

5

6 (d) An authorized delegate is deemed to consent to
7 the commissioner's inspection with or without prior notice
8 to the licensee or authorized delegate pursuant to W.S.
9 40-22-115.

10

11 **40-22-120. License suspension or revocation.**

12

13 (a) The commissioner may suspend or revoke a
14 licensee's license if the commissioner finds that:

15

16 (i) Any fact or condition exists that, if it had
17 existed at the time when the licensee applied for its
18 license, would have been grounds for denying the
19 application;

20

21 (ii) The licensee's net worth becomes inadequate
22 and the licensee after ten (10) business days written
23 notice from the commissioner, fails to remedy the
24 deficiency;

1

2 (iii) The licensee knowingly violates any
3 material provision of this act or any rule or order validly
4 promulgated by the commissioner;

5

6 (iv) The licensee is conducting its business in
7 an unsafe or unsound manner;

8

9 (v) The licensee is insolvent;

10

11 (vi) The licensee has suspended payment of its
12 obligations, has made an assignment for the benefit of its
13 creditors or has admitted in writing its inability to pay
14 its debts as they become due;

15

16 (vii) The licensee has applied for an
17 adjudication of bankruptcy, reorganization, arrangement or
18 other relief under any bankruptcy;

19

20 (viii) The licensee refuses to permit the
21 commissioner to make any examination authorized by this
22 act;

23

1 (ix) The licensee willfully fails to make any
2 report required by this act;

3

4 (x) The competence, experience, character or
5 general fitness of the licensee indicates that it is not in
6 the public interest to permit the licensee to continue to
7 conduct business.

8

9 **40-22-121. Suspension or revocation of authorized**
10 **delegates.**

11

12 (a) The commissioner may issue an order to the
13 licensee suspending or revoking the designation of an
14 authorized delegate if the commissioner finds that:

15

16 (i) The authorized delegate violated this act or
17 a rule adopted or an order issued under this act;

18

19 (ii) The authorized delegate has not cooperated
20 with an examination or investigation by the commissioner;

21

22 (iii) The authorized delegate has engaged in
23 fraud, intentional misrepresentation or gross negligence;

24

1 (iv) The authorized delegate has been convicted
2 of a violation of a state or federal money laundering
3 statute;

4
5 (v) The competence, experience, character or
6 general fitness of the authorized delegate or a person in
7 control of the authorized delegate indicates that it is not
8 in the public interest to permit the authorized delegate to
9 provide money services; or

10

11 (vi) The authorized delegate has engaged in an
12 unsafe or unsound practice.

13

14 (b) In determining whether an authorized delegate has
15 engaged in an unsafe or unsound practice the commissioner
16 may consider the size and condition of the authorized
17 delegate's provision of money services, the magnitude of
18 the loss, the gravity of the violation of this act and the
19 previous conduct of the authorized delegate.

20

21 (c) An authorized delegate may apply for relief from
22 a suspension or revocation designation as an authorized
23 delegate according to procedures prescribed by the
24 commissioner.

1

2

40-22-122. Orders to cease and desist.

3

4

(a) If the commissioner determines that a violation of this act or of a rule adopted or an order issued under this act by a licensee or authorized delegate is likely to cause immediate and irreparable harm to the licensee, its customers or the public as a result of the violation or cause insolvency or significant dissipation of assets of the licensee, the commissioner may issue an order requiring the licensee or authorized delegate to cease and desist from the violation. The order becomes effective upon service upon the licensee or authorized delegate.

14

15

(b) The commissioner may issue an order against a licensee to cease and desist from providing money transmission services through an authorized delegate that is the subject of a separate order pursuant to W.S. 40-22-121 by the commissioner.

20

21

(c) An order to cease and desist remains effective and enforceable pending the completion of an administrative proceeding pursuant to Wyoming Administrative Procedure Act.

24

1

2 **40-22-123. Consent orders.**

3

4 The commissioner may enter into a consent order at any time
5 with a person to resolve a matter arising under this act.

6 A consent order shall be signed by the person to whom it is
7 issued or by the person's authorized representative and
8 shall indicate agreement with the terms contained in the
9 order. A consent order may provide that it does not
10 constitute an admission by a person that this act or a rule
11 adopted or an order issued under this act has been
12 violated.

13

14 **40-22-124. Civil penalties.**

15

16 The commissioner may impose a civil penalty upon a person
17 who violates this act or a rule adopted or an order issued
18 under this act in an amount not to exceed five hundred
19 dollars (\$500.00) per day for each day the violation is
20 outstanding, plus the state's costs and expenses for the
21 investigation and prosecution of the matter, including
22 reasonable attorney's fees.

23

24 **40-22-125. Criminal penalties.**

1

2 (a) A person who intentionally makes a false
3 statement, misrepresentation or false certification in a
4 record filed or required to be maintained under this act or
5 who intentionally makes a false entry or omits a material
6 entry in the record is guilty of a felony, punishable for
7 not less than three (3) years imprisonment or a fine of not
8 less than ten thousand dollars (\$10,000.00), or both.

9

10 (b) An individual who knowingly engages in any
11 activity for which a license is required under this act
12 without being licensed under this act is guilty of a felony
13 punishable for not less than three (3) years imprisonment
14 or a fine of not less than ten thousand dollars
15 (\$10,000.00), or both.

16

17 **40-22-126. Unlicensed persons.**

18

19 (a) If the commissioner has reason to believe that a
20 person has violated or is violating W.S. 40-22-103 of this
21 act the commissioner may issue an order to show cause why
22 an order to cease and desist should not issue requiring
23 that the person cease and desist from the violation of W.S.
24 40-22-103.

1

2 (b) In an emergency, the commissioner may petition
3 the district court for the issuance of a temporary
4 restraining order.

5

6 (c) An order to cease and desist becomes effective
7 upon service upon the person.

8

9 (d) An order to cease and desist remains effective
10 and enforceable pending the completion of an administrative
11 proceeding pursuant to W.S. 40-22-127 and 40-22-128.

12

13 (e) A person served with an order to cease and desist
14 for violating W.S. 40-22-103 may petition the district
15 court for a judicial order setting aside, limiting, or
16 suspending the enforcement, operation, or effectiveness of
17 the order pending the completion of an administrative
18 proceeding pursuant to W.S. 40-22-127 and 40-22-128.

19

20 (f) The commissioner shall commence a contested case
21 proceeding within twenty (20) days after issuing an order
22 to cease and desist.

23

24 **40-22-127. Administrative procedures.**

1

2 All administrative proceedings under this act shall be
3 conducted in accordance with the Wyoming Administrative
4 Procedure Act.

5

6 **40-22-128. Hearings.**

7

8 Except as otherwise provided in W.S. 40-22-111(c) and
9 40-22-122(c), the commissioner may not suspend or revoke a
10 license, issue an order to cease and desist, suspend or
11 revoke the designation of an authorized delegate, or assess
12 a civil penalty without notice and an opportunity to be
13 heard. The commissioner shall also hold a hearing when
14 requested to do so by an applicant whose application for a
15 license is denied.

16

17 **40-22-129. Rulemaking and deposit of fees.**

18

19 (a) The commissioner shall promulgate all necessary
20 rules to implement and administer this act.

21

22 (b) All application, renewal and licensing fees shall
23 be deposited by the commissioner with the state treasurer

1 into the financial institutions administration account
2 within the earmarked revenue fund.

3

4 **Section 2.** This act is effective immediately upon
5 completion of all acts necessary for a bill to become law
6 as provided by Article 4, Section 8 of the Wyoming
7 Constitution.

8

9

10

(END)