

MONEY SERVICES ACT EFFECTIVE JULY 28, 2021



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**ARKANSAS SECURITIES DEPARTMENT
1 Commerce Way
Suite 402
Little Rock, Arkansas 72202**

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ARTICLE 1
General Provisions

- 23-55-101. Short title.
- 23-55-102. Definitions.
- 23-55-103. Exclusions.
- 23-55-104. Administration and rules.

23-55-101. Short title.

This chapter may be cited as the Uniform Money Services Act.

History. Acts 2007, No. 1595, § 1.

23-55-102. Definitions.

In this chapter:

- (1) “Applicant” means a person that files an application for a license under this chapter.
- (2) “Authorized delegate” means a person a licensee designates to provide money services on behalf of the licensee.
- (3) “Bank” means an institution organized under federal or state law which:
 - (A) accepts demand deposits or deposits that the depositor may use for payment to third parties and engages in the business of making commercial loans; or
 - (B) engages in credit card operations and maintains only one office that accepts deposits, does not accept demand deposits or deposits that the depositor may use for payments to third parties, does not accept a savings or time deposit less than \$100,000, and does not engage in the business of making commercial loans.
- (4) “Commissioner” means the Securities Commissioner.
- (5) “Control” means:

- (A) ownership of, or the power to vote, directly or indirectly, at least 25 percent of a class of voting securities or voting interests of a licensee or person in control of a licensee;
 - (B) power to elect a majority of executive officers, managers, directors, trustees, or other persons exercising managerial authority of a licensee or person in control of a licensee; or
 - (C) the power to exercise directly or indirectly, a controlling influence over the management or policies of a licensee or person in control of a licensee.
- (6) “Currency exchange” means receipt of revenues from the exchange of money of one government for money of another government.
- (7) “Executive officer” means a president, chairperson of the executive committee, chief financial officer, responsible individual, or other individual who performs similar functions.
- (8) “Licensee” means a person licensed under this chapter.
- (9) “Monetary value” means a medium of exchange, whether or not redeemable in money.
- (10) “Money” means a medium of exchange that is authorized or adopted by the United States or a foreign government. The term includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more governments.
- (11) “Money services” means money transmission or currency exchange.
- (12) (A) “Money transmission” means selling or issuing payment instruments, stored value, or prepaid access, or receiving money, virtual currency, or monetary value for transmission.
- (B) “Money transmission” does not include providing delivery services such as courier or package delivery services or acting as a mere conduit for the transmission of data.
- (13) “Outstanding,” with respect to a payment instrument, means issued or sold by or for the licensee and reported as sold but not yet paid by or for the licensee.
- (14) “Payment instrument” means a check, draft, money order, traveler's check, or other instrument for the transmission or payment of money or monetary value,

whether or not negotiable. The term does not include a credit card voucher, letter of credit, or instrument that is redeemable by the issuer in goods or services.

- (15) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; governmental subdivision, agency or instrumentality; public corporation; or any other legal or commercial entity.
- (16) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- (17) “Responsible individual” means an individual who is employed by a licensee and has principal managerial authority over the provision of money services by the licensee in this State.
- (18) “State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
- (19) (A) “Stored value” means monetary value that is evidenced by an electronic record representing a claim against the issuer stored on an electronic or digital medium or device, including without limitation a card, and evidenced by an electronic or digital record, intended and accepted for use as a means of redemption for money or monetary value or payment for goods or services.

(B) “Stored value” does not include any prepaid access or stored value that is only redeemable by the issuer for goods or services provided by the issuer or an affiliate of the issuer except to the extent required by applicable law to be redeemable in cash for the cash value of the goods or services.
- (20) “Unsafe or unsound practice” means a practice or conduct by a person licensed to engage in money transmission or an authorized delegate of such a person which creates the likelihood of material loss, insolvency, or dissipation of the licensee's assets, or otherwise materially prejudices the interests of its customers.
- (21) “Prepaid access” means access to funds or the value of funds that have been paid in advance that can be retrieved or transferred in the future through an electronic device or vehicle, including without limitation a card, code, electronic serial number, mobile identification number, or personal identification number.
- (22) (A) “Virtual currency” means a digital representation of value that:

- (i) is used as a medium of exchange, a unit of account, or a store of value; and
 - (ii) does not have legal tender status as recognized by the United States Department of the Treasury.
- (B) “Virtual currency” does not include the software or protocols governing the transfer of a digital representation of value or other uses of a virtual distributed ledger system to verify ownership or authenticity in a digital capacity when the virtual currency is not used as a medium of exchange.

History. Acts 2007, No. 1595, § 1; 2009, No. 486, §§ 1-3; 2011, No. 733, § 1; 2013, No. 531, § 1; 2021, No. 532, §§ 1-3.

23-55-103. Exclusions.

This chapter does not apply to:

- (1) the United States or a department, agency, or instrumentality thereof;
- (2) money transmission by the United States Postal Service or by a contractor on behalf of the United States Postal Service;
- (3) a state, county, city, or any other governmental agency or governmental subdivision of a State;
- (4) a bank, bank holding company, office of an international banking corporation, branch of a foreign bank, corporation organized pursuant to the Bank Service Company Act, 12 U.S.C. §§ 1861-1867 (Supp. V 1999), or corporation organized under the Edge Act, 12 U.S.C. §§ 611-633 (1994 & Supp. V 1999) under the laws of a State or the United States if it does not issue, sell, or provide payment instruments, stored value, prepaid access, or virtual currency through an authorized delegate that is not such a person;
- (5) electronic funds transfer of governmental benefits for a federal, state, county, or governmental agency by a contractor on behalf of the United States or a department, agency, or instrumentality thereof, or a State or governmental subdivision, agency, or instrumentality thereof;
- (6) a board of trade designated as a contract market under the federal Commodity Exchange Act, 7 U.S.C. §§ 1-25 (1994), or a person that, in the ordinary course of

business, provides clearance and settlement services for a board of trade to the extent of its operation as or for such a board;

- (7) a registered futures commission merchant under the federal commodities laws to the extent of its operation as such a merchant;
- (8) a person that provides clearance or settlement services pursuant to a registration as a clearing agency or an exemption from such registration granted under the federal securities laws to the extent of its operation as such a provider;
- (9) an operator of a payment system to the extent that it provides processing, clearing, or settlement services, between or among persons excluded by this section, in connection with wire transfers, credit card transactions, debit card transactions, stored-value transactions, automated clearing house transfers, similar funds transfers, prepaid access, or virtual currency;
- (10) a person registered as a securities broker-dealer under federal or state securities laws to the extent of its operation as such a broker-dealer;
- (11) a credit union regulated and insured by the National Credit Union Administration;
- (12) an agent appointed by a payee to collect and process payment as the agent of the payee, if the agent can demonstrate that:
 - (A) there exists a written agreement between the payee and the agent directing the agent to collect and process payments on behalf of the payee;
 - (B) the payee holds the agent out to the public as accepting payments on behalf of the payee; and
 - (C) payment is treated as received by the payee upon receipt by the agent so that there is no risk of loss to the individual initiating the transaction if the agent fails to remit the funds to the payee;
- (13) virtual currency or other digital representation of value redeemable exclusively for goods or services and limited to transactions involving a defined merchant, including without limitation a rewards program;
- (14) a digital representation of value issued by or on behalf of a publisher and used solely within an online game, game platform, or family of games sold by the same publisher or offered on the same game platform; or

- (15) uses of a virtual distributed ledger system to verify ownership or authenticity in a digital capacity when the virtual currency is not used as a medium of exchange.

History. Acts 2007, No. 1595, § 1; 2013, No. 531, §§ 2, 3; 2021, No. 532, §§ 4-6.

23-55-104. Administration and rules.

- (a) The Securities Commissioner shall administer this chapter.
- (b) The commissioner may:
 - (1) Make, amend, and rescind any rules, forms, and orders that the commissioner deems necessary or appropriate to carry out this chapter, including without limitation rules and forms governing applications and reports; and
 - (2) Define any terms, whether or not used in this chapter, if consistent with this chapter.
- (c) A rule, form, or order shall not be made, amended, or rescinded unless the commissioner finds that the action is:
 - (1) Necessary or appropriate in the public interest or for the protection of consumers; and
 - (2) Consistent with the purposes fairly intended by the policy and provisions of this chapter.
- (d) All rules and forms of the commissioner shall be published.

History. Acts 2009, No. 486, § 4.

ARTICLE 2

Money Transmission Licenses

- 23-55-201. License required.
- 23-55-202. Application for license.
- 23-55-203. [Repealed.]
- 23-55-204. Surety bonds.
- 23-55-205. Issuance of license.
- 23-55-206. Renewal of license.
- 23-55-207. Net worth

23-55-201. License required.

- (a) A person may not engage in the business of money transmission or advertise, solicit, or hold itself out as providing money transmission unless the person:
 - (1) is licensed under this article;
 - (2) is an authorized delegate of a person licensed under this article; or
 - (3) is excluded under § 23-55-103.
- (b) A license under this article is not transferable or assignable.

History. Acts 2007, No. 1595, § 1; 2009, No. 486, § 5; 2011, No. 733, § 2.

23-55-202. Application for license.

- (a) In this section, “material litigation” means litigation that according to generally accepted accounting principles or international financial reporting standards is significant to an applicant's or a licensee's financial health and would be required to be disclosed in the applicant's or licensee's annual audited financial statements, report to shareholders, or similar records.
- (b) A person applying for a license under this article shall do so in a form and in a medium prescribed by the commissioner. The application must state or contain:
 - (1) the legal name and residential and business addresses of the applicant and any fictitious or trade name used by the applicant in conducting its business;

- (2) a list of any criminal convictions of the applicant and any material litigation in which the applicant has been involved in the 10-year period next preceding the submission of the application;
- (3) a description of any money services previously provided by the applicant and the money services that the applicant seeks to provide in this State;
- (4) a list of the applicant's proposed authorized delegates and the locations in this State where the applicant and its authorized delegates propose to engage in money transmission or provide other money services;
- (5) a list of other States in which the applicant is licensed to engage in money transmission or provide other money services and any license revocations, suspensions, or other disciplinary action taken against the applicant in another State;
- (6) information concerning any bankruptcy or receivership proceedings affecting the licensee;
- (7) a sample form of contract for authorized delegates, if applicable, and a sample form of payment instrument or instrument upon which stored value or prepaid access is recorded, if applicable;
- (8) the name and address of any bank through which the applicant's payment instruments, stored value, or prepaid access will be paid;
- (9) a description of the source of money and credit to be used by the applicant to provide money services;
- (10) any other information the commissioner reasonably requires with respect to the applicant;
- (11) the name of a person submitted by the applicant as the responsible individual and information on that person to include:
 - (A) legal name;
 - (B) residential and business addresses;
 - (C) date of birth;
 - (D) Social Security number;

- (E) employment history for the five-year period preceding the submission of the application; and
 - (F) documentation that the proposed responsible individual is a citizen of the United States or has obtained legal immigration status to work in the United States;
- (12) for the ten-year period preceding submission of the application, a list of:
- (A) any criminal convictions of the proposed responsible individual of the applicant;
 - (B) any litigation involving the proposed responsible individual relating to the provision of money services; and
 - (C) any material litigation in which the applicant has been involved;
- (13) a list of any license revocations, suspensions, restrictions, or other disciplinary action taken against any money services business involving the proposed responsible individual of the applicant; and
- (14) information concerning any bankruptcy or receivership proceedings involving or affecting the applicant or the proposed responsible individual of the applicant.
- (c) If an applicant is a corporation, limited liability company, partnership, or other entity, the applicant shall also provide:
- (1) the date of the applicant's incorporation or formation and State or country of incorporation or formation;
 - (2) if applicable, a certificate of good standing from the State or country in which the applicant is incorporated or formed;
 - (3) a brief description of the structure or organization of the applicant, including any parent or subsidiary of the applicant, and whether any parent or subsidiary is publicly traded;
 - (4) the legal name, any fictitious or trade name, all business and residential addresses, and the employment, in the 10-year period next preceding the submission of the application of each executive officer, manager, director, or person that has control, of the applicant;

- (5) a list of any criminal convictions and material litigation in which any executive officer, manager, director, or person in control of, the applicant has been involved in the 10-year period next preceding the submission of the application;
 - (6) a copy of the applicant's audited financial statements for the most recent fiscal year and, if available, for the two-year period next preceding the submission of the application;
 - (7) a copy of the applicant's unconsolidated financial statements for the current fiscal year, whether audited or not, and, if available, for the two-year period next preceding the submission of the application;
 - (8) if the applicant is publicly traded, a copy of the most recent report filed with the United States Securities and Exchange Commission under § 13 of the federal Securities Exchange Act of 1934, 15 U.S.C. § 78m (1994 & Supp. V 1999);
 - (9) evidence of the applicant's registration or qualification to do business in this state;
 - (10) if the applicant is a wholly owned subsidiary of:
 - (A) a corporation publicly traded in the United States, a copy of audited financial statements for the parent corporation for the most recent fiscal year or a copy of the parent corporation's most recent report filed under § 13 of the federal Securities Exchange Act of 1934, 15 U.S.C. § 78m (1994 & Supp. V 1999); or
 - (B) a corporation publicly traded outside the United States, a copy of similar documentation filed with the regulator of the parent corporation's domicile outside the United States;
 - (11) if the applicant has a registered agent in this State, the name and address of the applicant's registered agent in this State; and
 - (12) any other information the commissioner reasonably requires with respect to the applicant.
- (d) A nonrefundable application fee of \$1,500 and a license fee of \$750 must accompany an application for a license under this article. The license fee must be refunded if the application is denied.

- (e) The commissioner may waive one or more requirements of subsections (b) and (c) or permit an applicant to submit other information in lieu of the required information.
- (f) The application shall be accompanied by the surety bond required by § 23-55-204.
- (g) (1) Each officer, director, responsible individual, and owner applicant shall furnish information concerning his or her identity.
 - (2) The information described in subdivision (g)(1) shall include:
 - (A) a state and national criminal background check to be conducted by the Identification Bureau of the Division of Arkansas State Police or the Federal Bureau of Investigation; and
 - (B) other pertinent facts, as the commissioner may reasonably require.
 - (3) (A) As part of an application for a license under this chapter, or periodically upon license renewal, the commissioner may receive criminal history record information that includes nonconviction information as defined in § 12-12-1001.
 - (B) The State Securities Department may only disseminate nonconviction information obtained under this section to a criminal justice agency.
 - (4) This subsection does not apply if an applicant or an applicant's corporate parent is a publicly traded entity.

History. Acts 2007, No. 1595, § 1; 2009, No. 486, §§ 6, 7; 2013, No. 531, § 4; 2019, No. 111, § 1; 2021, No. 532, §§ 7, 8.

23-55-203. [Repealed.]

23-55-204. Surety bonds.

- (a) (1) Except as otherwise provided in subsection (b), a money transmission licensee shall maintain a surety bond in an amount based on the previous year's:

- (A) Money transmission dollar volume;
 - (B) Payment instrument dollar volume; and
 - (C) Stored value dollar volume.
- (2) The minimum surety bond amount shall be at least \$10,000, and the maximum surety bond amount shall not exceed \$300,000.
 - (3) The commissioner may set specific required bond amounts by rule.
- (b) The surety bond must be in a form satisfactory to the commissioner.
 - (c) Every surety bond shall provide for suit on the bond by any person who has a cause of action under this chapter. The aggregate liability of the surety to all persons, cumulative or otherwise, may not exceed the principal sum of the bond.
 - (d) A surety bond must cover claims for so long as the commissioner specifies, but for at least five years after the licensee ceases to provide money services in this State. However, the commissioner may permit the amount of a surety bond to be reduced or eliminated before the expiration of that time to the extent the amount of the licensee's payment instruments or stored-value and prepaid access obligations outstanding in this State is reduced.
 - (e) The commissioner may increase the amount of a surety bond required to a maximum of \$1,000,000 if the financial condition of a licensee so requires, as evidenced by reduction of net worth, financial losses, or other relevant criteria.

History. Acts 2007, No. 1595, § 1; 2009, No. 486, § 9; 2011, No. 733, § 4; 2013, No. 531, § 5; 2017, No. 620, § 1; 2019, No. 111, § 2.

23-55-205. Issuance of license.

- (a) When an application is filed under this article, the commissioner shall investigate the applicant's financial condition and responsibility, financial and business experience, character, and general fitness. The commissioner may conduct an on-site investigation of the applicant, the reasonable cost of which the applicant must pay. The commissioner shall issue a license to an applicant under this article if the commissioner finds that all of the following conditions have been fulfilled:
 - (1) the applicant has complied with §§ 23-55-202, 23-55-204, and 23-55-207;

- (4) revoked by the commissioner.
- (f) (1) A money transmitter licensee may surrender a license by providing the commissioner with a written notice of surrender through the automated licensing system approved by the commissioner.
- (2) The written notice of surrender shall include notice of where the records of the money transmitter licensee will be stored and the name, address, telephone number, and other contact information of a responsible party who is authorized to provide access to the records.
- (3) The surrender of a license does not reduce or eliminate the civil or criminal liability of a money transmitter licensee arising from acts or omissions occurring before the surrender of the license, including any administrative actions undertaken by the commissioner to revoke or suspend a license, to assess fines, to order payment of restitution, or to exercise any other authority authorized under this chapter.

History. Acts 2007, No. 1595, § 1; 2009, No. 486, § 10; 2011, No. 733, § 5; 2021, No. 532, §§ 9, 10.

23-55-206. Renewal of license.

- (a) A licensee under this article shall pay an annual renewal fee of \$750 no later than December 31 in order to be licensed for the next calendar year.
- (b) A licensee under this article shall submit a renewal report with the renewal fee, in a form prescribed by the commissioner. The renewal report must state or contain:
 - (1) a list of the licensee's permissible investments and a certification that the licensee continues to maintain permissible investments according to the requirements set forth in §§ 23-55-701 and 23-55-702; and
 - (2) proof that the licensee continues to maintain an adequate surety bond as required by § 23-55-204.
- (c) A licensee shall comply with subsections (a) and (b) within thirty (30) days of the renewal date.
- (d) The commissioner for good cause may grant an extension of the renewal date.

History. Acts 2007, No. 1595, § 1; 2011, No. 733, § 6; 2013, No. 531, § 6; 2017, No. 620, § 2; 2019, No. 111, § 3; 2021, No. 532, §§ 11, 12.

23-55-207. Net worth.

- (a) A licensee under this article shall maintain a net worth that is calculated at \$10,000 for every \$1,000,000 of the total previous year's:
 - (1) Money transmission dollar volume;
 - (2) Payment instrument dollar volume; and
 - (3) Stored value dollar volume.
- (b) (1) A licensee shall maintain a minimum net worth of at least \$50,000.
 - (2) The commissioner may set specific required net worth amounts by rule.

History. Acts 2007, No. 1595, § 1; 2019, No. 111, § 4.

ARTICLE 3
[Reserved]

ARTICLE 4
Currency Exchange Licenses

- 23-55-401. License required.
- 23-55-402. Application for license.
- 23-55-403. Issuance of license.
- 23-55-404. Renewal of license.

23-55-401. License required.

- (a) A person may not engage in currency exchange or advertise, solicit, or hold itself out as providing currency exchange for which the person receives revenues equal or greater than five percent of total revenues unless the person:
 - (1) is licensed under this article;
 - (2) is licensed for money transmission under § 23-55-201 et seq.; or
 - (3) is an authorized delegate of a person licensed under § 23-55-201 et seq.
- (b) A license under this article is not transferable or assignable.

History. Acts 2007, No. 1595, § 1; 2011, No. 733, § 7.

23-55-402. Application for license.

- (a) A person applying for a license under this article shall do so in a form and in a medium prescribed by the commissioner. The application must state or contain:
 - (1) the legal name and residential and business addresses of the applicant, if the applicant is an individual or, if the applicant is not an individual, the name of each partner, executive officer, manager, and director;
 - (2) the location of the principal office of the applicant;

- (3) complete addresses of other locations in this State where the applicant proposes to engage in currency exchange, including all limited stations and mobile locations;
- (4) a description of the source of money and credit to be used by the applicant to engage in currency exchange;
- (5) other information the commissioner reasonably requires with respect to the applicant, but not more than the commissioner may require under § 23-55-201 et seq.;
- (6) the name of a person submitted by the applicant as the responsible individual and information on that person to include:
 - (A) legal name;
 - (B) residential and business addresses;
 - (C) date of birth;
 - (D) Social Security number;
 - (E) employment history for the five-year period preceding the submission of the application; and
 - (F) documentation that the proposed responsible individual is a citizen of the United States or has obtained legal immigration status to work in the United States;
- (7) for the ten-year period preceding the submission of the application, a list of any criminal convictions of the proposed responsible individual of the applicant, any litigation involving the proposed responsible individual relating to the provision of money services, and any material litigation in which the applicant has been involved;
- (8) a list of other states in which the applicant engages in currency exchange or provides other money services and any license revocations, suspensions, restrictions, or other disciplinary action taken against the applicant in another state;
- (9) a list of any license revocations, suspensions, restrictions, or other disciplinary action taken against any money services business involving the responsible individual of the applicant; and

- (10) information concerning any bankruptcy or receivership proceedings involving or affecting the applicant or the responsible individual of the applicant.
- (b) A nonrefundable application fee of \$1,500 and a license fee of \$375 must accompany an application for a license under this article. The license fee must be refunded if the application is denied.

History. Acts 2007, No. 1595, § 1; 2009, No. 486, § 11; 2019, No. 111, § 5; 2021, No. 532, § 13.

23-55-403. Issuance of license.

- (a) When an application for a license is made under this article, the commissioner shall investigate the applicant's financial condition and responsibility, financial and business experience, character, and general fitness. The commissioner may conduct an on-site investigation of the applicant, the reasonable cost of which the applicant must pay. The commissioner shall issue a license to an applicant under this article if the commissioner finds that all of the following conditions have been fulfilled:
 - (1) the applicant has complied with § 23-55-402; and
 - (2) the financial condition and responsibility, financial and business experience, competence, character, and general fitness of the applicant; and the competence, experience, character, and general fitness of the executive officers, managers, directors, and persons in control of, the applicant indicate that it is in the interest of the public to permit the applicant to engage in currency exchange.
- (b) When an application for an original license under this article is complete, the commissioner shall promptly notify the applicant in a record of the date on which the application was determined to be complete and:
 - (1) the commissioner shall approve or deny the application within 120 days after that date; or
 - (2) if the application is not approved or denied within 120 days after that date:
 - (A) the application is deemed approved; and

- (B) the commissioner shall issue the license under this article, to take effect as of the first business day after expiration of the period.
- (c) The commissioner may for good cause extend the application period.
- (d) An applicant whose application is denied a license by the commissioner under this article may appeal, within 30 days after receipt of the notice of the denial, from the denial and request a hearing.
- (e) A license issued under this chapter expires at the close of business on December 31 of the calendar year unless the license is:
 - (1) renewed according to this chapter;
 - (2) surrendered by the license holder;
 - (3) suspended; or
 - (4) revoked by the commissioner.

History. Acts 2007, No. 1595, § 1; 2009, No. 164, § 13; 2011, No. 733, § 8; 2019, No. 111, § 6.

23-55-404. Renewal of license.

- (a) A licensee under this article shall pay an annual renewal fee of \$375 no later than December 31 in order to be licensed for the next calendar year.
- (b) A licensee under this article shall submit a renewal report with the renewal fee, in a form and in a medium prescribed by the commissioner. The renewal report must contain a list of the locations in this State where the licensee or an authorized delegate of the licensee engages in currency exchange, including limited stations and mobile locations.
- (c) A licensee may renew a license after the time specified in subsection (a) if the licensee renews within thirty (30) days of the renewal date by:
 - (1) paying \$375 as required under subsection (a);
 - (2) complying with the requirements in subsection (b); and

- (3) paying a late fee of \$250 so long as the complete renewal application is received.
- (d) (1) The commissioner for good cause may grant an extension of the renewal date.
- (2) If a licensee has not renewed a license within thirty (30) days of the renewal date and has not shown good cause to receive an extension of the renewal date as described under subdivision (d)(1), then it shall be necessary for the licensee to submit a new application to engage in the business of currency exchange.

History. Acts 2007, No. 1595, § 1; 2009, No. 486, § 12; 2011, No. 733, § 9; 2019, No. 111, § 7; 2021, No. 532, § 14.

ARTICLE 5

Authorized Delegates

- 23-55-501. Relationship between licensee and authorized delegate.
23-55-502. Unauthorized activities.

23-55-501. Relationship between licensee and authorized delegate.

- (a) In this section, “remit” means to make direct payments of money to a licensee or its representative authorized to receive money or to deposit money in a bank in an account specified by the licensee.
- (b) A contract between a licensee and an authorized delegate must require the authorized delegate to operate in full compliance with this chapter. The licensee shall furnish in a record to each authorized delegate policies and procedures sufficient for compliance with this chapter.
- (c) An authorized delegate shall remit all money owing to the licensee in accordance with the terms of the contract between the licensee and the authorized delegate.
- (d) If a license is suspended or revoked, the commissioner shall notify all authorized delegates of the licensee whose names are in a record filed with the commissioner of the suspension, revocation, or non-renewal. After notice is sent or publication is made, an authorized delegate shall immediately cease to provide money services as a delegate of the licensee.
- (e) An authorized delegate may not provide money services outside the scope of activity permissible under the contract between the authorized delegate and the licensee, except activity in which the authorized delegate is authorized to engage under § 23-55-201 et seq. or § 23-55-401 et seq. An authorized delegate of a licensee holds in trust for the benefit of the licensee all money net of fees received from money transmission.
- (f) An authorized delegate may not use a subdelegate to conduct money services on behalf of a licensee.

History. Acts 2007, No. 1595, § 1; 2021, No. 532, § 15.

23-55-502. Unauthorized activities.

A person may not provide money services on behalf of a person not licensed under this chapter. A person that engages in that activity provides money services to the same extent as if the person were a licensee.

History. Acts 2007, No. 1595, § 1.

ARTICLE 6

Examinations – Reports – Records

- 23-55-601. Authority to conduct examinations and investigations.
- 23-55-602. Cooperation.
- 23-55-603. Reports.
- 23-55-604. Change of control.
- 23-55-605. Records.
- 23-55-606. Anti-money laundering program and reports.
- 23-55-607. Confidentiality.
- 23-55-608. Disclosure requirements.
- 23-55-609. Policy and procedure — Physical security and cybersecurity.

23-55-601. Authority to conduct examinations and investigations.

- (a) The Securities Commissioner or the commissioner's designee may conduct an annual examination of a licensee or of any of its authorized delegates upon 45 days' notice in a record to the licensee.
- (b) The commissioner may examine a licensee or its authorized delegate, at any time, without notice, if the commissioner has reason to believe that the licensee or authorized delegate is engaging in an unsafe or unsound practice or has violated or is violating this chapter or a rule adopted or an order issued under this chapter.
- (c)
 - (1) The licensee, applicant, or person subject to licensing under this chapter shall pay a fee for each examination, not to exceed one hundred fifty dollars (\$150) per examiner for each day or for part of a day during which the examiner is conducting the examination.
 - (2) In addition to the fee prescribed under subdivision (c)(1) of this section, the licensee, applicant, or person subject to licensing under this chapter may be required to pay the actual hotel and traveling expenses of each examiner traveling to and from the office of the commissioner while the examiner is conducting the examination.
- (d) Information obtained during an examination under this chapter may be disclosed only as provided in § 23-55-607.
- (e) The commissioner may:
 - (1) Make any investigations within or outside of this state that he or she deems necessary to determine whether a person has violated or is about to

violate this chapter or any rule or order under this chapter, or to aid in the enforcement of this chapter;

- (2) Require or permit a person to file a sworn, written statement or submit any other form of evidence concerning the matter to be investigated; and
 - (3) Publish information concerning a violation of this chapter or a rule or order issued under this chapter.
- (f) For the purpose of an investigation or proceeding under this chapter, the commissioner or the commissioner's designee may:
 - (1) Administer oaths and affirmations;
 - (2) Subpoena and compel the attendance of witnesses;
 - (3) Take evidence; and
 - (4) Require the production of books, papers, correspondence, memoranda, agreements, or other documents or records that the commissioner deems relevant or material to the inquiry.
- (g)
 - (1) In case of contumacy by or the refusal to obey a subpoena issued to a person, the Pulaski County Circuit Court upon application by the commissioner may order the person to appear before the commissioner or the commissioner's designee to testify or produce documentary or other evidence concerning the matter under investigation or in question.
 - (2) Failure to obey the order of the court may be punished by the court as a contempt of court.
- (h)
 - (1) A person shall not refuse to appear, testify, or produce evidence before the commissioner or the commissioner's designee on the ground that the testimony or evidence may tend to incriminate the person or subject the person to a penalty or forfeiture.
 - (2) (A) After claiming a privilege against self-incrimination, an individual shall not be prosecuted or subjected to a penalty or forfeiture for or on account of a transaction, matter, or thing concerning which the individual is compelled to testify or produce evidence, documentary or otherwise.

- (b) A licensee shall file with the commissioner within 45 days after the end of each calendar quarter a current list of all authorized delegates, and locations in this State where the licensee or an authorized delegate of the licensee provides money services, including limited stations and mobile locations. The licensee shall state the name and street address of each location and authorized delegate.
- (c) A money transmission licensee shall file with the commissioner within 90 days after the end of the money transmission licensee's fiscal year a copy of the money transmission licensee's audited financial statement from the most recently completed fiscal year or, if the money transmission licensee is a wholly owned subsidiary of another corporation, the consolidated audited financial statement of the parent corporation from the most recently completed fiscal year or the money transmission licensee's consolidated audited annual financial statement from the most recently completed fiscal year.
- (d) A licensee shall file a report with the commissioner within 3 business days after the licensee has reason to know of the occurrence of the following events:

 - (1) the filing of a petition by or against the licensee under the United States Bankruptcy Code, 11 U.S.C. §§ 101-110 (1994 & Supp. V 1999), for bankruptcy or reorganization;
 - (2) the filing of a petition by or against the licensee for receivership, the commencement of judicial or administrative proceedings for its dissolution or reorganization, or the making of a general assignment for the benefit of its creditors;
 - (3) the commencement of a proceeding to revoke or suspend its license in a state or country that the licensee engages in business or is licensed;
 - (4) the cancellation or impairment of the licensee's bond or other security;
 - (5) a charge or conviction of the licensee or of an executive officer, manager, director, or person in control of the licensee, for a felony; or
 - (6) a charge or conviction of an authorized delegate for a felony.
- (e) A licensee shall file with the commissioner within 45 days after the end of each calendar quarter, in a form acceptable to the commissioner, a report of the number and monetary amount of payment instruments, stored-value, prepaid access, and virtual currency sold by the licensee in this State for that quarter, and the

monetary amount of payment instruments, stored-value, prepaid access, and virtual currency currently outstanding.

- (f) The commissioner may for good cause grant an extension of the reporting date.

History. Acts 2007, No. 1595, § 1; 2011, No. 733, §§ 11, 12; 2017, No. 620, §§ 3, 4; 2021, No. 532, § 17.

23-55-604. Change of control.

- (a) A licensee shall:
 - (1) give the commissioner notice in a record of a proposed change of control within 15 days after learning of the proposed change of control;
 - (2) request approval of the acquisition; and
 - (3) submit a nonrefundable fee of \$1,000 with the notice.
- (b) After review of a request for approval under subsection (a), the commissioner may require the licensee to provide additional information concerning the proposed persons in control of the licensee. The additional information must be limited to the same types required of the licensee or persons in control of the licensee as part of its original license or renewal application.
- (c) The commissioner shall approve a request for change of control under subsection (a) if, after investigation, the commissioner determines that the person or group of persons requesting approval has the competence, experience, character, and general fitness to operate the licensee or person in control of the licensee in a lawful and proper manner and that the public interest will not be jeopardized by the change of control.
- (d) When an application for a change of control under this article is complete, the commissioner shall notify the licensee in a record of the date on which the request was determined to be complete and:
 - (1) the commissioner shall approve or deny the request within 120 days after that date; or
 - (2) if the request is not approved or denied within 120 days after that date:
 - (A) the request is deemed approved; and

- (B) the commissioner shall permit the change of control under this section, to take effect as of the first business day after expiration of the period.
- (e) The commissioner, by rule or order, may exempt a person from any of the requirements of subsection (a)(2) and (3) if it is in the public interest to do so.
- (f) Subsection (a) does not apply to a public offering of securities.
- (g) [Repealed.]

History. Acts 2007, No. 1595, § 1; 2009, No. 164, § 14; 2021, No. 532, § 18.

23-55-605. Records.

- (a) A licensee shall maintain the following records for determining its compliance with this chapter for at least five years:
 - (1) a record of each payment instrument, stored-value, virtual currency, or prepaid access obligation sold;
 - (2) a general ledger posted at least monthly containing all asset, liability, capital, income, and expense accounts;
 - (3) bank statements and bank reconciliation records;
 - (4) records of outstanding payment instruments and stored-value and prepaid access obligations;
 - (5) records of each payment instrument, stored-value, virtual currency, and prepaid access obligation paid within the five-year period;
 - (6) a list of the last known names and addresses of all of the licensee's authorized delegates; and
 - (7) any other records the commissioner reasonably requires by rule.
- (b) The items specified in subsection (a) may be maintained photographically, electronically, or in any other form of record allowed by the commissioner.

- (c) Records may be maintained outside this State if they are made accessible to the commissioner on seven business-days' notice that is sent in a record.
- (d) All records maintained by the licensee as required in subsections (a) through (c) are open to inspection by the commissioner pursuant to § 23-55-601.

History. Acts 2007, No. 1595, § 1; 2009, No. 486, § 15; 2013, No. 531, § 7; 2021, No. 532, § 19.

23-55-606. Anti-money laundering program and reports.

- (a) Every licensee shall comply with all state and federal laws, rules, and regulations relating to the detection and prevention of money laundering.
- (b) Every licensee shall maintain an anti-money laundering program in accordance with 31 C.F.R. § 103.125. The program shall be reviewed and updated as necessary to ensure that the program continues to be effective in detecting and deterring money laundering activities.
- (c) At a minimum, the program shall include:
 - (1) A system of internal controls to ensure ongoing compliance;
 - (2) Independent testing for compliance to be conducted by bank personnel or by an outside party;
 - (3) Designation of an individual or individuals who are responsible for coordinating and monitoring day-to-day compliance;
 - (4) Training for appropriate personnel; and
 - (5) Appropriate risk-based procedures for conducting ongoing customer due diligence to include without limitation:
 - (A) Understanding the nature and purpose of customer relationships for the purpose of developing a customer risk profile; and
 - (B) (i) Conducting ongoing monitoring to identify and report suspicious transactions and, on a risk basis, to maintain and update customer information.

- (ii) For purposes of subdivision (c)(5)(B)(i) of this section, customer information shall include information regarding the beneficial owners of legal entity customers.
- (d) Every licensee shall comply with the regulations of its federal functional regulator governing such programs.
- (e) A licensee and an authorized delegate shall file with the commissioner all reports required by federal currency reporting, record keeping, and suspicious transaction reporting requirements as set forth in 31 U.S.C. § 5311 (1994), 31 C.F.R. § 103 (2000), and other federal and state laws pertaining to money laundering.
- (f) The timely filing of a complete and accurate report required under subsection (e) of this section with the appropriate federal agency satisfies compliance with the requirements of subsection (e) of this section, unless the commissioner notifies the licensee that reports of this type are not being regularly and comprehensively transmitted by the federal agency to the commissioner.

History. Acts 2007, No. 1595, § 1; 2017, No. 620, § 5.

23-55-607. Confidentiality.

- (a) Unless otherwise specified in this section, all information filed with the commissioner shall be available for public inspection under rules promulgated by the commissioner consistent with state and federal law governing the disclosure of public information.
- (b) Except for reasonably segregable portions of information and records that by law would routinely be made available to a party other than an agency in litigation with the commissioner, the commissioner shall not publish or make available:
 - (1) Information contained in reports, summaries, analyses, letters, or memoranda arising out of, in anticipation of, or in connection with an investigation, examination, or inspection of the books and records of any person;
 - (2) Interagency or intra-agency memoranda or letters, including without limitation:
 - (A) Records that reflect discussions between or consideration by the commissioner or members of the staff of the State Securities Department or the staff of the Department of Commerce working

for the State Securities Department, or both, of any action taken or proposed to be taken by the commissioner or by any members of the staff of the State Securities Department or the staff of the Department of Commerce working for the State Securities Department; and

- (B)** Reports, summaries, analyses, conclusions, or any other work product of the commissioner or of attorneys, accountants, analysts, or other members of the commissioner's staff, prepared in the course of an:

 - (i)** Inspection of the books or records of a person whose affairs are regulated by the commissioner; or
 - (ii)** Examination, investigation, or litigation conducted by or on behalf of the commissioner;

- (3)** Personnel files, medical files, and similar files if disclosure would constitute a clearly unwarranted invasion of personal privacy, including without limitation:

 - (A)** Information concerning employees of the State Securities Department or employees of the Department of Commerce working for the State Securities Department and all persons subject to rule by the State Securities Department; and
 - (B)** Personal information reported to the commissioner under the department's rules concerning registration about employees of applicants, licensees, or their agents;

- (4)** **(A)** Investigatory records compiled for law enforcement purposes to the extent that production of the records would:

 - (i)** Interfere with enforcement proceedings;
 - (ii)** Deprive a person of a right to a fair trial or an impartial adjudication; or
 - (iii)** Disclose the identity of a confidential source.

- (B)** The commissioner may also withhold investigatory records that would:

- (i) Constitute an unwarranted invasion of personal privacy;
 - (ii) Disclose investigative techniques and procedures; or
 - (iii) Endanger the life or physical safety of law enforcement personnel.
- (C) As used in this section, “investigatory records” includes:
- (i) All documents, records, transcripts, correspondence, and related memoranda and work products concerning examinations and other investigations and related litigation as authorized by law that pertain to or may disclose the possible violation by any person of any provision of the statutes or rules administered by the commissioner; and
 - (ii) All written communications from or to any person confidentially complaining or otherwise furnishing information about a possible violation, as well as all correspondence and memoranda in connection with the confidential complaint or information;
- (5) Information contained in or related to examinations, operating reports, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions, check issuers, money transmitters, money services providers, or money service businesses;
- (6) (A) Financial records of any applicant, licensee, or the agent of an applicant or licensee obtained during or as a result of an examination by the commissioner.
- (B) However, when a record under this article is required to be filed with the commissioner as part of an application for license, annual renewal, or otherwise, the record, including financial statements prepared by certified public accountants, shall be public information unless sections of the information are bound separately and are marked “confidential” by the applicant, licensee, or agent upon filing.
- (C) Information under subdivision (b)(6)(B) of this section bound separately and marked “confidential” shall be deemed nonpublic until ten (10) days after the commissioner has given the applicant,

licensee, or agent notice that an order will be entered deeming the material public information.

- (D) An applicant, licensee, or agent may seek an injunction from the Pulaski County Circuit Court ordering the commissioner to withhold the information as nonpublic pending a final order from a court of competent jurisdiction if the order of the commissioner under subdivision (b)(6)(C) of this section is appealed under applicable law;
 - (7) Trade secrets obtained from any person; or
 - (8) Any other records that are required to be closed to the public and are not deemed open to public inspection under other law.
- (c) The commissioner may disclose information not otherwise subject to disclosure under subsection (a) to representatives of state or federal agencies who promise in a record that they will maintain the confidentiality of the information; or the commissioner finds that the release is reasonably necessary for the protection of the public and in the interests of justice, and the licensee has been given previous notice by the commissioner of its intent to release the information.
- (d) This section does not prohibit the commissioner from disclosing to the public a list of persons licensed under this chapter or the aggregated financial data concerning those licensees.

History. Acts 2007, No. 1595, § 1; 2019, No. 315, § 2607; 2019, No. 910, §§ 588, 589.

23-55-608. Disclosure requirements.

- (a) A licensee shall provide its name and mailing address or telephone number to the purchaser in connection with each money transmission or currency exchange transaction conducted by the licensee directly or through an authorized delegate.
- (b) An authorized delegate shall display prominently in a form and in a medium prescribed by the Securities Commissioner a notice that states or contains the following information:
 - (1) The name, mailing address, and telephone number of the authorized delegate;
 - (2) For each licensee of the authorized delegate:

- (A) A statement that the authorized delegate is an agent conducting business on behalf of the licensee under this chapter; and
 - (B) The name, mailing address, and telephone number of the licensee; and
- (3) A statement:
- (A) Directing consumers with complaints to contact the State Securities Department; and
 - (B) Containing the current mailing address and telephone number of the department.

History. Acts 2009, No. 486, § 16.

23-55-609. Policy and procedure — Physical security and cybersecurity.

- (a) A money transmitter or currency exchanger licensed or required to be licensed under this chapter shall establish, implement, update, and enforce written physical security and cybersecurity policies and procedures reasonably designed to ensure the confidentiality, integrity, and availability of physical and electronic records and information.
- (b) A policy or procedure described in subsection (a) of this section shall be tailored to the size and sophistication of the money transmitter or currency exchanger.
- (c) The Securities Commissioner may impose additional conditions by rule or order to clarify the requirements of a policy or procedure described in subsection (a) of this section.

History. Acts 2021, No. 532, § 20.

ARTICLE 7

Permissible Investments

23-55-701. Maintenance of permissible investments.

23-55-702. Types of permissible investments.

23-55-701. Maintenance of permissible investments.

- (a) A licensee shall maintain at all times permissible investments that have a market value computed in accordance with generally accepted accounting principles or international financial reporting standards of not less than the aggregate amount of all of its outstanding payment instruments and stored value and prepaid access obligations issued or sold in all states and money transmitted from all states by the licensee.
- (b) A licensee transmitting virtual currency shall hold like-kind virtual currency of the same volume as that held by the licensee but which is obligated to consumers in lieu of the permissible investments required in subsection (a).
- (c) A licensee conducting activities as described in subsections (a) and (b) shall maintain applicable levels and types of permissible investments as described in subsections (a) and (b).
- (d) The commissioner, with respect to any licensees, may limit the extent to which a type of investment within a class of permissible investments may be considered a permissible investment, except for money and certificates of deposit issued by a bank. The commissioner by rule may prescribe or by order allow other types of investments that the commissioner determines to have a safety substantially equivalent to other permissible investments.
- (e) Permissible investments, even if commingled with other assets of the licensee, are held in trust for the benefit of the purchasers and holders of the licensee's outstanding payment instruments and stored value and prepaid access obligations in the event of bankruptcy or receivership of the licensee.

History. Acts 2007, No. 1595, § 1; 2013, No. 531, § 8; 2019, No. 111, § 8; 2021, No. 532, § 21.

23-55-702. Types of permissible investments.

- (a) Except to the extent otherwise limited by the commissioner pursuant to § 23-55-701, the following investments are permissible under § 23-55-701:

- (1) cash;
 - (2) a bank receivable or credit card receivable;
 - (3) a savings deposit, a demand deposit, a certificate of deposit, or senior debt obligation of an insured depository institution, as defined in section 3 of the Federal Deposit Insurance Act, 12 U.S.C. § 1813 (1994 & Supp. V 1999);
 - (4) an investment security that is an obligation of the United States or a department, agency, or instrumentality thereof; an investment in an obligation that is guaranteed fully as to principal and interest by the United States; or an investment in an obligation of a State or a governmental subdivision, agency, or instrumentality thereof; and
 - (5) receivables that are payable to a licensee from its authorized delegates, in the ordinary course of business, pursuant to contracts that are less than seven days old.
- (b) The following investments are permissible under § 23-55-701, if an investment does not exceed 30 percent of:
- (1) a short-term investment that is not longer than six months bearing a rating of one of the three highest grades as defined by a nationally recognized organization that rates securities;
 - (2) commercial paper; and
 - (3) an interest-bearing bill, note, bond, or debenture of a person whose equity shares are traded on a national securities exchange or on a national over-the-counter market.
- (c) A savings deposit, a demand deposit, or a certificate of deposit at a foreign depository is permissible under § 23-55-701 if the investment does not exceed 10 percent.
- (d) Any other investment is permissible under § 23-55-701 if the commissioner designates, to the extent specified by the commissioner.
- (e) The aggregate of investments under subsections (b)-(d) may not exceed 50 percent of the total permissible investments of a licensee calculated in accordance with § 23-55-701.

History. Acts 2007, No. 1595, § 1; 2021, No. 532, § 22.

ARTICLE 8

Enforcement

- 23-55-801. Suspension and revocation.
- 23-55-802. Suspension and revocation of authorized delegates.
- 23-55-803. Orders to cease and desist.
- 23-55-804. Consent orders.
- 23-55-805. Civil penalties.
- 23-55-806. Criminal penalties.
- 23-55-807. Unlicensed persons.
- 23-55-808. Receivership.

23-55-801. Suspension and revocation.

- (a) The commissioner may suspend or revoke a license or order a licensee to revoke the designation of an authorized delegate if:
 - (1) the licensee violates this chapter or a rule adopted or an order issued under this chapter;
 - (2) the licensee does not cooperate with an examination or investigation by the commissioner;
 - (3) the licensee engages in fraud, intentional misrepresentation, or gross negligence;
 - (4) an authorized delegate is convicted of a violation of a state or federal anti-money laundering statute, or violates a rule adopted or an order issued under this chapter, as a result of the licensee's willful misconduct or willful blindness;
 - (5) the competence, experience, character, or general fitness of the licensee, authorized delegate, person in control of a licensee, or responsible person of the licensee or authorized delegate indicates that it is not in the public interest to permit the person to provide money services;
 - (6) the licensee engages in an unsafe or unsound practice;
 - (7) the licensee is insolvent, suspends payment of its obligations, or makes a general assignment for the benefit of its creditors;

- (8) the licensee does not remove an authorized delegate after the commissioner issues and serves upon the licensee a final order including a finding that the authorized delegate has violated this chapter; or
 - (9) the licensee is the subject of an order, including a denial, suspension, or revocation, by this or any other state or federal authority that was entered against the person within the past 5 years, including without limitation the money services industry.
- (b) In determining whether a licensee is engaging in an unsafe or unsound practice, the commissioner may consider the size and condition of the licensee's money transmission, the magnitude of the loss, the gravity of the violation of this chapter, and the previous conduct of the person involved.

History. Acts 2007, No. 1595, § 1; 2011, No. 733, § 13.

23-55-802. Suspension and revocation of authorized delegates.

- (a) The commissioner may issue an order suspending or revoking the designation of an authorized delegate, if the commissioner finds that:
- (1) the authorized delegate violated this chapter or a rule adopted or an order issued under this chapter;
 - (2) the authorized delegate did not cooperate with an examination or investigation by the commissioner;
 - (3) the authorized delegate engaged in fraud, intentional misrepresentation, or gross negligence;
 - (4) the authorized delegate is convicted of a violation of a state or federal anti-money laundering statute;
 - (5) the competence, experience, character, or general fitness of the authorized delegate or a person in control of the authorized delegate indicates that it is not in the public interest to permit the authorized delegate to provide money services; or
 - (6) the authorized delegate is engaging in an unsafe or unsound practice.
- (b) In determining whether an authorized delegate is engaging in an unsafe or unsound practice, the commissioner may consider the size and condition of the

authorized delegate's provision of money services, the magnitude of the loss, the gravity of the violation of this chapter or a rule adopted or order issued under this chapter, and the previous conduct of the authorized delegate.

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

History. Acts 2007, No. 1595, § 1.

23-55-803. Orders to cease and desist.

- (a) If the Securities Commissioner determines that a violation of this chapter or of a rule adopted or an order issued under this chapter by a licensee, authorized delegate, or any other person 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 a summary order requiring the licensee, authorized delegate, or any other person to cease and desist from the violation. The order becomes effective upon service of it upon the licensee, authorized delegate, or any other person.
- (b) The commissioner may issue a summary order against a licensee to cease and desist from providing money services through an authorized delegate that is the subject of a separate order by the commissioner.
- (c) An order to cease and desist remains effective and enforceable pending the completion of an administrative proceeding pursuant to § 23-55-901 or § 23-55-902 and the entry of a subsequent order to affirm, modify, or vacate the order by the commissioner.

History. Acts 2007, No. 1595, § 1; 2009, No. 486, § 17.

23-55-804. Consent orders.

The commissioner may enter into a consent order at any time with a person to resolve a matter arising under this chapter or a rule adopted or order issued under this chapter. A consent order must be signed by the person to whom it is issued or by the person's authorized representative, and must indicate agreement with the terms contained in the order. A consent order may provide that it does not constitute an admission by a person that this chapter or a rule adopted or an order issued under this chapter has been violated.

History. Acts 2007, No. 1595, § 1.

23-55-805. Civil penalties.

The commissioner may assess a civil penalty against a person that violates this chapter or a rule adopted or an order issued under this chapter in an amount not to exceed \$1,000 per day for each day the violation is outstanding, plus this State's costs and expenses for the investigation and prosecution of the matter, including reasonable attorney's fees.

History. Acts 2007, No. 1595, § 1.

23-55-806. Criminal penalties.

- (a) A person that intentionally makes a false statement, misrepresentation, or false certification in a record filed or required to be maintained under this chapter, that intentionally makes a false entry or omits a material entry in such a record, or violates any rule promulgated or order issued hereunder is guilty of a Class B felony.
- (b) A person that knowingly engages in an activity for which a license is required under this chapter without being licensed under this chapter and who receives more than \$500 in compensation within a 30-day period from this activity is guilty of a Class B felony.
- (c) A person that knowingly engages in an activity for which a license is required under this chapter without being licensed under this chapter and who receives no more than \$500 in compensation within a 30-day period from this activity is guilty of a Class A misdemeanor.

History. Acts 2007, No. 1595, § 1.

23-55-807. Unlicensed persons.

- (a) (1) [Repealed.]
- (2) If as a result of an investigation or examination the Securities Commissioner finds that a person has engaged or is about to engage in an act or practice constituting a violation of this chapter or a rule or order under this chapter, the commissioner may summarily issue:
 - (A) A cease and desist order under § 23-55-803; or

- (B) An order to prohibit the person from continuing to engage in providing money services.
- (b) [Repealed.]
- (c) (1) An order to cease and desist becomes effective upon service of it upon the person.
- (2) A hearing shall be held on the written request of the person aggrieved by the order to cease and desist if the request is received by the commissioner within thirty (30) days of the date of the entry of the order to cease and desist or if ordered by the commissioner.
- (d) An order to cease and desist remains effective and enforceable pending the completion of an administrative proceeding pursuant to §§ 23-55-901 and 23-55-902 and the entry of a subsequent order by the commissioner to affirm, modify, or vacate the order.
- (e) The commissioner may apply to the Pulaski County Circuit Court to:
 - (1) Temporarily or permanently enjoin an act or practice that violates this chapter or a rule or order under this chapter; or
 - (2) Enforce compliance with this chapter or a rule or order under this chapter.

History. Acts 2007, No. 1595, § 1; 2009, No. 486, § 18.

23-55-808. Receivership.

- (a) (1) Whenever a licensee has refused or is unable to pay its obligations generally as they become due or whenever it appears to the commissioner that a licensee is in an unsafe or unsound condition, the commissioner, or the Attorney General representing the commissioner, may apply to the Pulaski County Circuit Court or to the circuit court of any county in which the licensee is located for the appointment of a receiver for the licensee. The court may require the receiver to post a bond in such amount as may appear necessary to protect claimants of the licensee.
- (2) The receiver, subject to the approval of the court, shall take possession of the books, records, and assets of the licensee and shall take such action with respect to employees, agents, or representatives of the licensee or such other action as may be necessary to conserve the assets of the

licensee or ensure payment of instruments issued by the licensee pending further disposition of its business as provided by law. The receiver shall sue and defend, compromise, and settle all claims involving the licensee and exercise such powers and duties as may be necessary and consistent with the laws of this state applicable to the appointment of receivers.

- (3) The receiver, from time to time, but in no event less frequently than once each calendar quarter, shall report to the court with respect to all acts and proceedings in connection with the receivership.

History. Acts 2007, No. 1595, § 1.

ARTICLE 9

Administrative Procedures

- 23-55-901. Administrative proceedings.
- 23-55-902. Hearings

23-55-901. Administrative proceedings.

All administrative proceedings under this chapter must be conducted in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 2007, No. 1595, § 1.

23-55-902. Hearings.

- (a) Except as otherwise provided in §§ 23-55-803 and 23-55-807, the commissioner may not suspend or revoke a license, issue an order to cease and desist, suspend or revoke the designation of an authorized delegate, or assess a civil penalty without notice and an opportunity to be heard.
- (b) The commissioner shall also hold a hearing when requested to do so by an applicant whose application for a license is denied.

History. Acts 2007, No. 1595, § 1; 2011, No. 733, § 14.

ARTICLE 10
Miscellaneous Provisions

- 23-55-1001. Uniformity of application and construction.
- 23-55-1002. Severability clause.
- 23-55-1003. Effective date.
- 23-55-1004. [Reserved.]
- 23-55-1005. [Repealed.]
- 23-55-1006. License terms.
- 23-55-1007. Multistate automated licensing system.

23-55-1001. Uniformity of application and construction.

In applying and construing this Uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among States that enact it.

History. Acts 2007, No. 1595, § 1.

23-55-1002. Severability clause.

If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

History. Acts 2007, No. 1595, § 1.

23-55-1003. Effective date.

This chapter takes effect January 1, 2008.

History. Acts 2007, No. 1595, § 1.

23-55-1004. [Reserved.]

History. Acts 2007, No. 1595, § 1.

23-55-1005. [Repealed.]

23-55-1006. License terms.

Effective January 1, 2012:

- (1) a license for a money transmission issued or renewed under this chapter shall expire on December 31 of each year unless it is terminated by surrender, abandonment, a change of employment, or order of the commissioner; and
- (2) a license for a currency exchange issued or renewed under this chapter shall expire on December 31 every 2 years unless it is terminated by surrender, abandonment, a change of employment, or order of the commissioner.

History. Acts 2011, No. 733, § 15; 2013, No. 531, § 9.

23-55-1007. Multistate automated licensing system.

- (a) The Securities Commissioner may:
 - (1) Enter into an arrangement, agreement, or other working relationship with federal, state, or self-regulatory authorities, the Conference of State Bank Supervisors, or a subsidiary entity owned by the Conference of State Bank Supervisors to file and maintain documents in a multistate automated licensing system or other central depository system;
 - (2) Waive or modify in whole or in part by rule or by order any requirement of this chapter if necessary to implement this section; and
 - (3) Establish new requirements under this chapter to carry out the purpose of this section.
- (b) It is the intent of this section that the commissioner be provided the authority to reduce duplication of filings, reduce administrative costs, and establish uniform procedures, forms, and administration with other states and federal authorities.
- (c)
 - (1) The commissioner may permit or require initial and renewal registration filings required under this chapter to be filed with the Conference of State Bank Supervisors, a subsidiary entity owned by the Conference of State Bank Supervisors, the Financial Industry Regulatory Authority, or another entity maintaining or operating a multistate automated licensing system.
 - (2) The applicant or the licensee shall pay any fee charged for the applicant or the licensee to participate in the automated licensing system.

- (d) The commissioner may accept uniform procedures and forms designed to:
 - (1) Implement a multistate automated licensing system;
 - (2) Implement a uniform national regulatory system; or
 - (3) Facilitate common practices and procedures among the states.

History. Acts 2017, No. 620, § 6.