

HOUSE BILL NO. 271

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/20/16

Referred: Labor and Commerce

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to a money services business; relating to transmitting value that
2 substitutes for money; relating to licensing requirements and registration through the
3 Nationwide Multistate Licensing System and Registry; relating to surety bonding
4 requirements; authorizing certain licensees to contract to use subdelegates for reloading
5 funds onto stored-value cards; relating to record retention, reporting requirements, and
6 enforcement provisions; relating to exemptions; relating to money services Internet
7 activities; relating to definitions regarding the transmitting value, currency, and money
8 transmission business activities; and providing for an effective date."

9 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

10 * **Section 1.** AS 06.55.101(a) is amended to read:

11 (a) **Unless exempt under AS 06.55.802, a** [A] person may not engage in the
12 business of money transmission or advertise, solicit, or hold the person out as

1 providing money transmission unless the person

2 (1) holds a money transmission license; or

3 (2) is an authorized delegate of a person who holds a money
4 transmission license.

5 * **Sec. 2.** AS 06.55.101(c) is amended by adding a new subsection to read:

6 (c) A person required to be licensed under AS 06.55.101 - 06.55.106 shall
7 register with the registry and maintain a valid unique identifier issued by the registry.

8 * **Sec. 3.** AS 06.55.102 is repealed and reenacted to read:

9 **Sec. 06.55.102. Application for license.** An application for a money
10 transmission license under this chapter must

11 (1) be in a format established by the department;

12 (2) contain complete information required by the department;

13 (3) include each control person's fingerprints for submission to the
14 Department of Public Safety or the Federal Bureau of Investigations and any
15 governmental agency or entity authorized to receive that information to obtain a report
16 of criminal justice information and a national criminal history record check;

17 (4) include personal history and experience in a format established by
18 the department to obtain

19 (A) an independent credit report from a consumer reporting
20 agency; and

21 (B) information related to administrative, civil, or criminal
22 findings by a governmental jurisdiction;

23 (5) contain other information or supporting material that the
24 department may require concerning the applicant, including the organization and
25 operations of an applicant for a money transmission license and the financial
26 responsibility, background, experience, and activities of the applicant;

27 (6) include a nonrefundable application fee and an initial license fee, as
28 established by the department; and

29 (7) include a surety bond as required by AS 06.55.104.

30 * **Sec. 4.** AS 06.55.104 is repealed and reenacted to read:

31 **Sec. 06.55.104. Security.** (a) A surety bond must accompany an application

1 for a money transmission license. The surety bond must be at least \$25,000 and may
2 not exceed \$1,000,000 as established by the department.

3 (b) The surety bond must be in a form satisfactory to the department and
4 payable to the state for the benefit of the state and any person or persons who suffer
5 loss due to a violation of this chapter by a licensee or a licensee's authorized delegate.

6 (c) The aggregate liability on a surety bond may not exceed the principal sum
7 of the bond. A claimant against a money transmission licensee may maintain an action
8 on the bond, or the department may maintain an action on behalf of the claimant.

9 (d) A surety bond must cover claims for as long as the department specifies,
10 but for at least five years after the date the money transmission licensee stops
11 providing money services in this state. The department may permit the amount of
12 security to be reduced or eliminated before the expiration of that time to the extent the
13 amount of the money transmission licensee's payment instruments or stored-value
14 obligations outstanding is reduced.

15 (e) The bond must be obtained from a surety company authorized to do
16 business in this state.

17 (f) If a money transmission licensee does not maintain a surety bond in the
18 amount required under (a) of this section, the department may issue an order under
19 AS 06.55.603.

20 * **Sec. 5.** AS 06.55.105 is repealed and reenacted to read:

21 **Sec. 06.55.105. Issuance of license.** (a) When an application is filed under
22 AS 06.55.102, the department shall investigate the applicant's financial condition and
23 responsibility, financial and business experience, competence, character, and general
24 fitness. The department may conduct an investigation of the applicant, the reasonable
25 cost of which the applicant shall pay. The department shall issue a money transmission
26 license to an applicant under AS 06.55.102 if the department finds that all of the
27 following conditions have been fulfilled:

28 (1) the applicant has complied with the requirements of this chapter for
29 obtaining the license;

30 (2) the financial condition and responsibility, financial and business
31 experience, competence, character, and general fitness of the applicant indicate that it

1 is in the interest of the public to permit the applicant to engage in money transmission;
2 and

3 (3) the applicant, including any employees or independent contractors
4 of the applicant, is not listed on the Specially Designated Nationals and Blocked
5 Persons List or any other Office of Foreign Assets Control sanctions list prepared by
6 the United States Department of the Treasury or designated successor agency.

7 (b) When an application for an original money transmission license under
8 AS 06.55.102 is complete, the department shall promptly notify the applicant in a
9 record of the date on which the application was determined to be complete and the
10 department shall approve or deny the application not later than 120 days after that
11 date.

12 (c) The department may for good cause extend the application period.

13 (d) An applicant whose application under AS 06.55.102 is denied by the
14 department under AS 06.55.101 - 06.55.106 may appeal, not later than 30 days after
15 receipt of the notice of the denial, and request a hearing.

16 (e) A license issued under AS 06.55.101 - 06.55.106 remains in effect until
17 December 31 of the year in which the license is issued, unless the license is revoked,
18 is suspended, or is surrendered.

19 * **Sec. 6.** AS 06.55.106 is repealed and reenacted to read:

20 **Sec. 06.55.106. Renewal of license.** (a) To renew a license, the licensee shall
21 submit to the department a

22 (1) renewal application at a time and in a format established by the
23 department;

24 (2) renewal fee as established by the department; and

25 (3) report identifying any changes in the information previously
26 provided and any additional information requested by the department.

27 (b) The department shall approve or deny the application for renewal of a
28 license not later than 60 days after the renewal application is filed.

29 * **Sec. 7.** AS 06.55 is amended by adding a new section to read:

30 **Sec. 06.55.108. Annual assessment fee and annual report.** (a) A licensee
31 shall pay an annual assessment fee as established by the department not later than the

1 annual assessment due date or, if the annual assessment due date is not a business day,
 2 on the next business day. Annual assessment fees shall be established by the
 3 department in regulation.

4 (b) A licensee shall submit an accurate annual report with the annual
 5 assessment in a format established by the department.

6 (c) If a licensee does not file an annual report or pay its annual assessment by
 7 the assessment due date, the department shall assess the licensee a late fee as
 8 established by the department.

9 * **Sec. 8.** AS 06.55.201(a) is amended to read:

10 (a) **Unless exempt under AS 06.55.802, a** [A] person may not engage **in the**
 11 **business of** currency exchange or advertise, solicit, or hold the person out as providing
 12 currency exchange for which the person receives revenues equal or greater than five
 13 percent of total revenues unless the person

14 (1) holds a currency exchange license; **or**

15 (2) holds a money transmission license [; OR

16 (3) IS AN AUTHORIZED DELEGATE OF A PERSON WHO
 17 HOLDS A MONEY TRANSMISSION LICENSE].

18 * **Sec. 9.** AS 06.55.201 is amended by adding a new subsection to read:

19 (c) A person required to be licensed under AS 06.201 - 06.55.206 must
 20 register with the registry and maintain a valid unique identifier issued by the registry.

21 * **Sec. 10.** AS 06.55.202 is repealed and reenacted to read:

22 **Sec. 06.55.202. Application for license.** An application for a currency
 23 exchange license must

24 (1) be in a format established by the department;

25 (2) contain complete information required by the department;

26 (3) include each control person's fingerprints for submission to the
 27 Department of Public Safety or the Federal Bureau of Investigations and any
 28 governmental agency or entity authorized to receive that information to obtain a report
 29 of criminal justice information and a national criminal history record check.

30 (4) include personal history and experience in a format established by
 31 the department to obtain

(A) an independent credit report from a consumer reporting agency; and

(B) information related to administrative, civil, or criminal findings by a governmental jurisdiction;

(5) contain other information or supporting material that the department may require concerning the applicant, including the organization and operations of an applicant for a currency exchange license and the financial responsibility, background, experience, and activities of the applicant;

(6) include a nonrefundable application fee and an initial license fee, as established by the department;

(7) include a surety bond as required by AS 06.55.206.

* **Sec. 11.** AS 06.55.203(a) is amended to read:

(a) When an application [FOR A CURRENCY EXCHANGE LICENSE] is filed under **AS 06.55.202** [AS 06.55.201 - 06.55.204], the department shall investigate the applicant's financial condition and responsibility, financial and business experience, **competence**, character, and general fitness. The department may conduct an [ON-SITE] investigation of the applicant, the reasonable cost of which the applicant shall pay. The department shall issue a currency exchange license to an applicant under **AS 06.55.202** [AS 06.55.201 - 06.55.204] if the department finds that all of the following conditions have been fulfilled:

(1) the applicant has complied with **the requirements of this chapter for obtaining the license** [AS 06.55.202]; 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; **and**

(3) the applicant, including any employees or independent contractors of the applicant, is not listed on the Specially Designated Nationals and Blocked Persons List or any other Office of Foreign Assets Control sanctions

list prepared by the United States Department of the Treasury or designated successor agency.

* **Sec. 12.** AS 06.55.203(b) is amended to read:

(b) When an application for an original currency exchange license under **AS 06.55.202** [AS 06.55.201 - 06.55.204] is complete, the department shall promptly notify the applicant in a record of the date on which the application was determined to be complete, and

[(1)] the department shall approve or deny the application **not later than** [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 APPROVED; AND

(B) THE DEPARTMENT SHALL ISSUE THE CURRENCY EXCHANGE LICENSE UNDER AS 06.55.201 - 06.55.204 TO TAKE EFFECT AS OF THE FIRST BUSINESS DAY AFTER EXPIRATION OF THE PERIOD].

* **Sec. 13.** AS 06.55.203(d) is amended to read:

(d) An applicant whose application **under AS 06.55.202** is denied by the department under **AS 06.55.201 - 06.55.206** [AS 06.55.201 - 06.55.204] may appeal, **not later than** [WITHIN] 30 days after receipt of the notice of the denial, [FROM THE DENIAL] and request a hearing.

* **Sec. 14.** AS 06.55.203 is amended by adding a new subsection to read:

(e) A license issued under AS 06.55.201 - 06.55.206 remains in effect until December 31 of the year in which the license is issued, unless the license is revoked, is suspended, or is surrendered.

* **Sec. 15.** AS 06.55.204 is repealed and reenacted to read:

Sec. 06.55.204. Renewal of license. (a) To renew a license, the licensee shall submit to the department a

(1) renewal application at a time and in a format established by the department;

(2) renewal fee as established by the department; and

1 (3) report identifying any changes in the information previously
2 provided and any additional information requested by the department.

3 (b) The department shall approve or deny the application for renewal of a
4 license not later than 60 days after the renewal application is filed.

5 * **Sec. 16.** AS 06.55 is amended by adding a new section to article 2 to read:

6 **Sec. 06.55.206. Security.** (a) A surety bond must accompany an application
7 for a currency exchange license. The surety bond must be at least \$25,000 and may not
8 exceed \$1,000,000 as established by the department.

9 (b) The surety bond must be in a form satisfactory to the department and
10 payable to this state for the benefit of this state and any person or persons who suffer
11 loss due to a violation of this chapter by a licensee or a licensee's authorized delegate.

12 (c) The aggregate liability on a surety bond may not exceed the principal sum
13 of the bond. A claimant against a currency exchange licensee may maintain an action
14 on the bond, or the department may maintain an action on behalf of the claimant.

15 (d) A surety bond must cover claims for as long as the department specifies,
16 but for at least five years after the date the currency exchange licensee stops providing
17 currency exchange in this state. The department may permit the amount of security to
18 be reduced or eliminated before the expiration of that time to the extent the amount of
19 the currency exchange licensee's outstanding obligations in this state is reduced.

20 (e) The bond shall be obtained from a surety company authorized to do
21 business in this state.

22 (f) If a currency exchange licensee does not maintain a surety bond in the
23 amount required under (a) of this section, the department may issue an order under
24 AS 06.55.603.

25 * **Sec. 17.** AS 06.55 is amended by adding a new section to read:

26 **Sec. 06.55.207. Annual assessment and annual report.** (a) A licensee shall
27 pay an annual assessment as established by the department not later than the annual
28 assessment due date or, if the annual assessment due date is not a business day, on the
29 next business day. Annual assessment fees shall be established by the department.

30 (b) A licensee shall submit an accurate annual report with the annual
31 assessment in a format established by the department.

(c) If a licensee does not file an annual report or pay its annual assessment by the assessment due date, the department shall assess the licensee a late fee as established by the department.

* **Sec. 18.** AS 06.55.301(b) is amended to read:

(b) An authorized delegate shall remit all money owing to the money services licensee under the terms of the contract between the money services licensee and the authorized delegate. [IN THIS SUBSECTION, "REMIT" MEANS TO MAKE DIRECT PAYMENTS OF MONEY TO A MONEY SERVICES LICENSEE OR ITS REPRESENTATIVE AUTHORIZED TO RECEIVE MONEY OR TO DEPOSIT MONEY IN A BANK IN AN ACCOUNT SPECIFIED BY THE MONEY SERVICES LICENSEE.]

* **Sec. 19.** AS 06.55.301(d) is amended to read:

(d) An authorized delegate may not provide money services outside the scope of activity permissible under the contract between the authorized delegate and the money services licensee, except activity in which the authorized delegate is authorized to engage under AS 06.55.101 - 06.55.206 [AS 06.55.101 - 06.55.204]. An authorized delegate of a money services licensee holds in trust for the benefit of the money services licensee all money net of fees received from money services.

* **Sec. 20.** AS 06.55.301 is amended by adding a new subsection to read:

(f) A money services licensee may conduct business regulated under this chapter through an authorized delegate appointed by the licensee in accordance with this section. A licensee is responsible for acts of the authorized delegate, of which the licensee has or reasonably should have knowledge, that are conducted under the authority granted by the licensee and that relate to the licensee's money services business.

* **Sec. 21.** AS 06.55 is amended by adding a new section to article 3 to read:

Sec. 06.55.304. Limited authorization of subdelegate. (a) A money services licensee may contract with another money services licensee to use that other licensee's existing authorized delegate as a subdelegate to load funds onto the first licensee's existing open-loop stored-value cards. If the subdelegate sells new open-loop stored-value cards for the first licensee, that licensee shall add the subdelegate to the

1 licensee's authorized delegate roster.

2 (b) A money services licensee shall maintain all contracts under (a) of this
3 section as part of the licensee's books and records and make them available to the
4 department on request.

5 * **Sec. 22.** AS 06.55.401 is repealed and reenacted to read:

6 **Sec. 06.55.401. Authority to conduct examinations.** (a) A licensee or other
7 person subject to this chapter shall make available to the department, on request, the
8 place of business, books, records, accounts, safes, and vaults relating to the operations
9 of the licensee or other person subject to this chapter. The department may interview
10 any person, including control persons, officers, principals, employees, authorized
11 delegates, and customers of the licensee or other person subject to this chapter
12 concerning the licensee's or other person's business.

13 (b) The department may conduct an examination or investigation of the books,
14 accounts, records, papers, documents, files, and other information used in the business
15 of a money services licensee or its authorized delegates in conjunction with
16 representatives of other state agencies or agencies of another state or of the federal
17 government. The department may accept an examination report or an investigation
18 report of an agency of this state or of another state or of the federal government.

19 (c) A joint examination or investigation, or an acceptance of an examination
20 or investigation report, does not preclude the department from conducting an
21 examination or investigation under this chapter. A joint report or a report accepted
22 under this section is an official report of the department for all purposes.

23 (d) For the purpose of hearings, investigations, or other proceedings under this
24 chapter, the department or an officer designated by the department may administer
25 oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take
26 evidence, and require the production of books, papers, correspondence, memoranda,
27 agreements, or other documents or records that the department considers relevant or
28 material to the matter. Information obtained during an examination under this chapter
29 may be disclosed only as provided in AS 06.55.407.

30 (e) A person shall reimburse the department for reasonable costs incurred by
31 the department to conduct an examination or investigation under this section.

1 * **Sec. 23.** AS 06.55.402 is repealed and reenacted to read:

2 **Sec. 06.55.402. Cooperation.** The department may consult and cooperate with
3 other state and federal regulators in enforcing and administering this chapter.

4 * **Sec. 24.** AS 06.55.403(b) is repealed and reenacted to read:

5 (b) A money services licensee shall file with the department not later than 45
6 days after the end of each fiscal quarter a report containing information about the
7 licensee, its locations, authorized delegates, and any other information as required by
8 the department. The department shall establish the content and form of the report.

9 * **Sec. 25.** AS 06.55.403(c) is amended to read:

10 (c) A money services licensee shall file a report with the department **not later**
11 **than** [WITHIN] one business day after the money services licensee has reason to
12 know of the occurrence of **one or more** [ANY] of the following events:

13 (1) the filing of a petition by or against the money services licensee
14 under 11 U.S.C. 101 - 110 (Bankruptcy Code) for bankruptcy or reorganization;

15 (2) the filing of a petition by or against the money services licensee for
16 receivership, the commencement of any other judicial or administrative proceeding for
17 its dissolution or reorganization, or the making of a general assignment for the benefit
18 of its creditors;

19 (3) the commencement of a proceeding to revoke or suspend its money
20 services license in a state or country in which the money services licensee engages in
21 business or is licensed;

22 (4) the cancellation or other impairment of the money services
23 licensee's bond [OR OTHER SECURITY];

24 (5) a charge against or conviction of the money services licensee or of
25 an officer, manager, director, or person in control of the money services licensee for a
26 felony; or

27 (6) a charge against or conviction of an authorized delegate for a
28 felony.

29 * **Sec. 26.** AS 06.55.403 is amended by adding a new subsection to read:

30 (d) The department may establish a late fee or other consequence for a money
31 services licensee who fails to file a report as required by this section.

1 * **Sec. 27.** AS 06.55.404(a) is amended to read:

2 (a) A money services licensee shall

3 (1) give the department notice in a record 30 days before [OF] a
4 proposed change of control and give the department notice in a record not later
5 than [WITHIN] 15 days after learning of the proposed change of control;

6 (2) request approval of the change of control by submitting the
7 information required by the department [ACQUISITION]; and

8 (3) submit a nonrefundable fee with the notice as required by the
9 department.

10 * **Sec. 28.** AS 06.55.404(d) is amended to read:

11 (d) When an application for a change of control [UNDER AS 06.55.401 -
12 06.55.407] is complete, the department shall notify the money services licensee in a
13 record of the date on which the request was determined to be complete, and

14 [(1)] the department shall approve or deny the request not later than
15 [WITHIN] 120 days after that date [; OR

16 (2) IF THE REQUEST IS NOT APPROVED OR DENIED WITHIN
17 120 DAYS AFTER THAT DATE,

18 (A) THE REQUEST IS APPROVED; AND

19 (B) THE DEPARTMENT SHALL PERMIT THE CHANGE
20 OF CONTROL UNDER THIS SECTION, TO TAKE EFFECT AS OF THE
21 FIRST BUSINESS DAY AFTER EXPIRATION OF THE PERIOD].

22 * **Sec. 29.** AS 06.55.405(a) is amended to read:

23 (a) A [MONEY SERVICES] licensee shall maintain the following records for
24 determining its compliance with this chapter for at least five [THREE] years:

25 (1) a record of each payment instrument or stored-value obligation
26 sold;

27 (2) a general ledger posted at least monthly containing all asset,
28 liability, capital, income, and expense accounts;

29 (3) bank statements and bank reconciliation records;

30 (4) records of outstanding payment instruments and stored-value
31 obligations;

(5) records of each payment instrument and stored-value obligation paid within the **five-year** [THREE-YEAR] period;

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

(7) copies of all currency transaction reports and suspicious activity reports filed in compliance with AS 06.55.406; and

(8) [(7)] any other records the department reasonably requires by regulation.

* **Sec. 30.** AS 06.55.405(b) is repealed and reenacted to read:

(b) The items specified in (a) of this section must be provided in a format established by the department.

* **Sec. 31.** AS 06.55.406 is repealed and reenacted to read:

Sec. 06.55.406. Money laundering reports. A money services licensee and an authorized delegate shall file with the United States Department of the Treasury, or its designated successor agency, all reports required by federal currency reporting, record keeping, and suspicious transaction reporting requirements as set out in 31 U.S.C. 5311 - 5332 and other federal and state laws pertaining to money laundering.

* **Sec. 32.** AS 06.55.407(b) is amended to read:

(b) The department may disclose information that is not otherwise subject to disclosure under (a) of this section to representatives of state or federal agencies who **agree in writing to** [PROMISE IN A RECORD THAT THEY WILL] maintain the confidentiality of the information or if the department finds that the release is reasonably necessary for the protection of the public and in the interests of justice [, AND THE MONEY SERVICES LICENSEE HAS BEEN GIVEN PREVIOUS NOTICE BY THE DEPARTMENT OF ITS INTENT TO RELEASE THE INFORMATION].

* **Sec. 33.** AS 06.55.407(c) is amended to read:

(c) This section does not prohibit the department from disclosing to the public

(1) a list of money services licensees or authorized delegates, including addresses and the names of contact individuals;

(2) the identity of a money services licensee or authorized delegate

1 **subject to an emergency or final order of the department; or**

2 (3) the aggregated financial data **of** [CONCERNING THOSE] money
3 services licensees.

4 * **Sec. 34.** AS 06.55.501(a) is amended to read:

5 (a) **Except as provided in (b) of this section, a** [A] money services licensee
6 shall maintain at all times permissible investments that have a market value computed
7 under generally accepted accounting principles of not less than the aggregate amount
8 of all of its outstanding payment instruments and stored-value obligations issued or
9 sold in all states and money transmitted from all states by the money services licensee.

10 * **Sec. 35.** AS 06.55.501(c) is repealed and reenacted to read:

11 (c) A permissible investment subject to this section, even if commingled with
12 other assets of the money services licensee, is considered by operation of law to be
13 held in trust for the benefit of any individual to whom an obligation arising under this
14 chapter is owed and may not be considered an asset or property of the licensee in the
15 event of bankruptcy, receivership, or a claim against the licensee unrelated to any of
16 the licensee's obligations under this chapter.

17 * **Sec. 36.** AS 06.55.601(a) is amended to read:

18 (a) The department may **issue an order under AS 06.55.603 to** suspend or
19 revoke a money services license, place a money services licensee in receivership, or
20 order a money services licensee to revoke the designation of an authorized delegate if

21 (1) the money services licensee violates this chapter or a regulation
22 adopted or an order issued under this chapter;

23 (2) the money services licensee **did not permit or** [DOES NOT]
24 cooperate with an examination or investigation by the department;

25 (3) the money services licensee engages in fraud, intentional
26 misrepresentation, or gross negligence;

27 (4) **a money services licensee or** an authorized delegate is convicted
28 of a violation of a state or federal anti-money laundering statute, **or a law listed in**
29 **AS 06.55.860,** or violates a regulation adopted or an order issued under this chapter, as
30 a result of the money services licensee's wilful misconduct or wilful blindness;

31 (5) the competence, experience, character, or general fitness of the

money services licensee, authorized delegate, person in control of a money services licensee, or responsible person of the money services licensee or authorized delegate indicates that it is not in the public interest to permit the person to provide money services;

(6) the money services licensee engages in an unsafe or unsound practice;

(7) the money services licensee is insolvent, suspends payment of its obligations, or makes a general assignment for the benefit of its creditors; [OR]

(8) the money services licensee does not remove an authorized delegate after the department issues and serves upon the money services licensee a final order including a finding that the authorized delegate has violated this chapter;

(9) a fact or condition exists that, if it had been known at the time the money services licensee applied for the license, would have been grounds for denying the application;

(10) the money services licensee has engaged in false, misleading, or deceptive advertising;

(11) the money services licensee has failed to pay a judgment entered in favor of a claimant or creditor in an action arising out of the money services licensee's activities under this chapter not later than the 30th day after the date the stay of execution expires or is terminated, as applicable; or

(12) the money services licensee knowingly made a material misstatement or has suppressed or withheld material information on an application, request for approval, report, or other document required to be filed with the department under this chapter.

* Sec. 37. AS 06.55.601(b) is amended to read:

(b) In determining whether a money services licensee is engaging in an unsafe or unsound practice, the department may consider the size and condition of the money services licensee's money transmission **or currency exchange**, the magnitude of the loss **or potential loss**, the gravity of the violation of this chapter **or an order issued under this chapter, or an action taken against the money services licensee by this state, another state, or the federal government**, and the previous conduct of the

1 person involved.

2 * **Sec. 38.** AS 06.55.602(a) is amended to read:

3 (a) The department may issue an order under AS 06.55.603 to suspend or
 4 revoke [SUSPENDING OR REVOKING] the designation of an authorized delegate
 5 or the limited designation of a subdelegate if [THE DEPARTMENT FINDS THAT]

6 (1) the authorized delegate or subdelegate violated this chapter or a
 7 regulation adopted or an order issued under this chapter or any other state or federal
 8 law applicable to a money services business;

9 (2) the authorized delegate or subdelegate did not permit or
 10 cooperate with an examination or investigation by the department;

11 (3) in connection with the operation of the delegate's business on
 12 behalf of the money services licensee or any transaction subject to this chapter the
 13 authorized delegate or subdelegate has engaged in fraud, intentional
 14 misrepresentation, deceit, [OR] gross negligence, or an unfair or deceptive act or
 15 practice;

16 (4) the authorized delegate or subdelegate is convicted of a violation
 17 of a state or federal anti-money laundering statute or any law listed in AS 06.55.860;

18 (5) the competence, experience, character, or general fitness of the
 19 authorized delegate, or subdelegate, or a person in control of the authorized delegate
 20 or subdelegate indicates that it is not in the public interest to permit the authorized
 21 delegate or subdelegate to provide money services; [OR]

22 (6) the authorized delegate is engaging in an unsafe or unsound
 23 practice or

24 (7) the authorized delegate, a person in control of the authorized
 25 delegate, or the subdelegate is listed on the Specially Designated Nationals and
 26 Blocked Persons List, or any other Office of Foreign Assets Control sanctions list
 27 prepared by the United States Department of the Treasury, or designated
 28 successor agency.

29 * **Sec. 39.** AS 06.55.602(b) is amended to read:

30 (b) In determining whether an authorized delegate or subdelegate is engaging
 31 in an unsafe or unsound practice, the department may consider the size and condition

of the authorized delegate's or subdelegate's provision of money services, the magnitude of the loss or potential loss, the gravity of the violation of this chapter or a regulation adopted or order issued under this chapter, an action taken against the delegate or subdelegate by this state, another state, or the federal government, and the previous conduct of the authorized delegate or subdelegate.

* **Sec. 40.** AS 06.55.603 is repealed and reenacted to read:

Sec. 06.55.603. Administrative orders. (a) If the department determines that a violation of this chapter or an order issued under this chapter by a person licensed under this chapter is likely to cause immediate and irreparable harm to the money services licensee, its customers, or the public as a result of the violation, or cause insolvency or significant dissipation of assets of the money services licensee, the department may issue an administrative order. The order becomes effective on service of the order on a person licensed under this chapter.

(b) The department may issue an order against a person licensed under this chapter to

- (1) stop providing money services;
- (2) compel payment of restitution to damaged parties;
- (3) require affirmative action to comply with this chapter or regulation adopted under this chapter; and
- (4) remove from office or prohibit from participation an officer, person in control, or employee.

(c) An order remains effective and enforceable pending the completion of an administrative proceeding under AS 06.55.701 or 06.55.702.

(d) A person licensed under this chapter who is served with an order may petition the superior court for a judicial order setting aside, limiting, or suspending the enforcement, operation, or effectiveness of the order pending the completion of an administrative proceeding under AS 06.55.701 or 06.55.702.

* **Sec. 41.** AS 06.55.607(a) is repealed and reenacted to read:

(a) If the department has reason to believe that a person who is not a money services licensee under AS 06.55.101, currency exchange licensee under AS 06.55.201, authorized delegate under AS 06.55.301, or subdelegate under

AS 06.55.304 has violated or is violating AS 06.55.101 or 06.55.201, the department may issue an order under AS 06.55.603.

* **Sec. 42.** AS 06.55.607(c) is amended to read:

(c) An order [TO CEASE AND DESIST] becomes effective upon service of **the order** [IT] upon the person.

* **Sec. 43.** AS 06.55.607(d) is amended to read:

(d) An order [TO CEASE AND DESIST] remains effective and enforceable pending the completion of an administrative proceeding under AS 06.55.701 and 06.55.702.

* **Sec. 44.** AS 06.55.607 is amended by adding a new subsection to read:

(g) An order issued by the department may include an additional monetary penalty if the department has reason to believe that a person who is not a money services licensee under AS 06.55.101, currency exchange licensee under AS 06.55.201, authorized delegate under AS 06.55.301, or subdelegate under AS 06.55.304 has violated or is violating AS 06.55.101 or 06.55.201.

* **Sec. 45.** AS 06.55.802 is amended to read:

Sec. 06.55.802. Exemptions [EXCLUSIONS]. This chapter does not apply to

(1) the United States or a department, an agency, or an instrumentality of the United States;

(2) money transmission by the United States Postal Service or by a contractor on behalf of the United States Postal Service;

(3) a state, a municipality, a county, or another governmental agency or governmental subdivision of a state;

(4) a bank, a bank holding company, an office of an international banking corporation, a branch of a foreign bank, a corporation organized under 12 U.S.C. 1861 - 1867 (Bank Service Company Act), or a corporation organized under 12 U.S.C. 611 - 633 (Edge Act) under the laws of a state or the United States, if it does not issue, sell, or provide payment instruments or stored value through an authorized delegate who is not a bank, a bank holding company, an office of an international banking corporation, a branch of a foreign bank, a corporation organized under 12 U.S.C. 1861 - 1867 (Bank Service Company Act), or a corporation organized under 12

1 U.S.C. 611 - 633 (Edge Act) under the laws of a state or the United States;

2 (5) electronic funds transfer of governmental benefits for a federal,
3 state, or municipal agency or a state political subdivision by a contractor on behalf of

4 (A) the United States or a department, an agency, or an
5 instrumentality of the United States; or

6 (B) a state, or a department, an agency, or an instrumentality of
7 a state;

8 (6) a board of trade or a person who, in the ordinary course of
9 business, provides clearance and settlement services for a board of trade, to the extent
10 of the operation of the person for a board of trade; in this paragraph, "board of trade"
11 means a board of trade designated as a contract market under 7 U.S.C. 1 - 27f
12 (Commodity Exchange Act);

13 (7) a registered futures commission merchant under the federal
14 commodities laws, to the extent of the merchant's operation as a registered futures
15 commission merchant under the federal commodities laws;

16 (8) a person who provides clearance or settlement services under a
17 registration as a clearing agency or an exemption from the registration granted under
18 the federal securities laws, to the extent of the person's operation as a provider of
19 clearance or settlement services under a registration as a clearing agency or an
20 exemption from the registration granted under the federal securities laws;

21 (9) an operator of a payment system to the extent that the operator
22 provides processing, clearing, or settlement services, between or among persons
23 excluded by this section, in connection with wire transfers, credit card transactions,
24 debit card transactions, stored-value transactions, automated clearing house transfers,
25 or similar funds transfers; [OR]

26 (10) a person registered as a securities broker-dealer under federal or
27 state securities laws, to the extent of the person's operation as a securities broker-
28 dealer under federal or state securities laws;

29 **(11) an insurance company, title insurance company, or escrow**
30 **agent to the extent that the entity is lawfully authorized to conduct business in**
31 **this state as an insurance company, title insurance company, or escrow agent and**

to the extent that the entity engages in money transmission or currency exchange as an ancillary service when conducting insurance, title insurance, or escrow activity; or

(12) an attorney, to the extent that the attorney is lawfully authorized to practice law in this state and to the extent that the attorney engages in money transmission or currency exchange as an ancillary service to the practice of law.

* **Sec. 46.** AS 06.55.810 is repealed and reenacted to read:

Sec. 06.55.810. Notices required. (a) A money services licensee shall provide a customer with notice of how to file a complaint. The money services licensee shall provide notice at each location where the money services licensee

(1) provides money services under this chapter; and

(2) has not designated an authorized delegate or subdelegate to provide money services on behalf of the money services licensee at the location.

(b) An authorized delegate or subdelegate shall provide a notice of how to file a complaint at each location where the authorized delegate or subdelegate provides money services under this chapter.

(c) The notice required under this section must be in a content and format as established by the department.

* **Sec. 47.** AS 06.55.820 is repealed and reenacted to read:

Sec. 06.55.820. Transmission, receipt, and refund. A money services licensee who receives money or equivalent value for money transmission or currency exchange shall comply with transmission, receipt, and refund provisions according to federal law (Federal Remittance Transfer Rule, 12 C.F.R. Part 1005, Subpart B) and any requirements established by the department.

* **Sec. 48.** AS 06.55 is amended by adding new sections to read:

Sec. 06.55.860. Compliance with federal requirements. A person subject to this chapter shall conduct the person's money services activities in compliance with

(1) 31 U.S.C. 5311 - 5314 (Intelligence Reform and Terrorism Prevention Act of 2004);

(2) 31 U.S.C. 5316 - 5329 (Money Laundering Control Act of 1986);

- 1 (3) 31 U.S.C. 5330 (Money Laundering Suppression Act of 1994);
 2 (4) 31 U.S.C. 5331 - 5332 (International Money Laundering
 3 Abatement and Financial Anti-Terrorism Act of 2001);
 4 (5) 12 U.S.C. 1829b (Federal Deposit Insurance Act);
 5 (6) 12 U.S.C. 1951 - 1959 (Bank Secrecy Act);
 6 (7) 18 U.S.C. 981 - 982 (Money Laundering Control Act of 1986); and
 7 (8) any other federal statute or regulation the purpose of which is to
 8 regulate money transmission, currency exchange, or money services.

9 **Sec. 06.55.870. Escheatment of property.** A person subject to this chapter
 10 shall comply with unclaimed property laws as defined in AS 34.45.

11 **Sec. 06.55.880. Application to Internet activities.** This chapter applies to a
 12 person who engages in activities regulated under this chapter by using an Internet
 13 website from within or outside the state.

14 * **Sec. 49.** AS 06.55 is amended by adding new sections to article 9 to read:

15 **Sec. 06.55.900. Administration.** (a) The department may require an applicant
 16 or a licensee to submit information, documentation, or payment of a fee required under
 17 this chapter through the registry in a format established by the department and
 18 acceptable to the registry.

19 (b) The department may use the registry as a channeling agent for obtaining
 20 information required for licensing purposes under this chapter, including

21 (1) criminal history record information from the Federal Bureau of
 22 Investigation, the United States Department of Justice, or any other agency or entity
 23 identified by the department;

24 (2) information related to administrative, civil, or criminal findings by
 25 other states.

26 **Sec. 06.55.920. Regulations.** The department may adopt regulations under
 27 AS 44.62 (Administrative Procedure Act) to implement this chapter.

28 * **Sec. 50.** AS 06.55.990 is repealed and reenacted to read:

29 **Sec. 06.55.990. Definitions.** In this chapter, unless the context indicates
 30 otherwise,

31 (1) "applicant" means any person filing an application, a control

1 person, officer, director, manager, and owner applicant for a money services license;

2 (2) "authorized delegate" means a person to whom a money services
3 licensee designates to provide money services on behalf of the money services
4 licensee;

5 (3) "bank" means an institution organized under federal or state law
6 that

7 (A) accepts demand deposits or deposits that the depositor may
8 use for payment to third parties and engages in the business of making
9 commercial loans; or

10 (B) engages in credit card operations and maintains only one
11 office that accepts deposits, does not accept demand deposits or deposits that
12 the depositor may use for payments to third parties, does not accept a savings
13 or time deposit less than \$100,000, and does not engage in the business of
14 making commercial loans;

15 (4) "control" means the

16 (A) ownership of, or the power to vote, directly or indirectly, at
17 least 10 percent of a class of voting securities or voting interests of a money
18 services licensee or person in control of a money services licensee; for
19 purposes of determining the percentage of a money services licensee controlled
20 by a person, the percentage consists of the person's interest aggregated with the
21 interest of any spouse, parent, or child of the person;

22 (B) power to elect a majority of officers, managers, directors,
23 trustees, or other persons exercising managerial authority of a money services
24 licensee or person in control of a money services licensee; or

25 (C) power to exercise directly or indirectly, a controlling
26 influence over the management or policies of a money services licensee or
27 person in control of a money services licensee;

28 (5) "currency" means the coin and paper money of the United States or
29 a foreign government that is

30 (A) designated as legal tender and circulates; and

31 (B) customarily used and accepted as a medium of exchange in

1 the country of issuance;

2 (6) "currency exchange" means receipt of revenues from the exchange
3 of money of one government for money of another government;

4 (7) "currency exchange license" means a license under AS 06.55.201 -
5 06.55.206;

6 (8) "currency exchange licensee" means a person who holds a currency
7 exchange license;

8 (9) "department" means the Department of Commerce, Community,
9 and Economic Development;

10 (10) "fiat currency" means government-issued currency that is
11 designated as legal tender in its country of issuance through government decree,
12 regulation, or law;

13 (11) "funds" means money or other value that may be accepted for
14 money;

15 (12) "informal value transfer system"

16 (A) means any system, mechanism, or network that receives
17 money for the purpose of making funds or an equivalent value payable to a
18 third party in another geographic location, whether or not in the same form;
19 and

20 (B) generally takes place outside of a conventional banking
21 system through nonbank financial institutions or other business entities whose
22 primary business activity may not be the transmission of money;

23 (13) "medium of exchange" means something commonly accepted in
24 exchange for goods and services and recognized as representing a standard of value;

25 (14) "monetary value" means a medium of exchange, whether or not
26 redeemable in money;

27 (15) "money" means a medium of exchange that is authorized or
28 adopted by the United States or a foreign government, including a monetary unit of
29 account established by an intergovernmental organization or by agreement between
30 two or more governments;

31 (16) "money laundering" means an activity criminalized by 18 U.S.C.

1 1956 or 1957, or an activity that would be criminalized by 18 U.S.C. 1956 or 1957 if it
 2 occurred in the United States;

3 (17) "money services" means money transmission or currency
 4 exchange;

5 (18) "money services license" means a currency exchange license or a
 6 money transmission license;

7 (19) "money services licensee" means a person who holds a currency
 8 exchange license or a money transmission license;

9 (20) "money transmission" means

10 (A) the acceptance and the transmission of currency, funds, or
 11 other value that substitutes for currency from one person to another location or
 12 person within the United States or to locations abroad, by any means, including

13 (i) a financial agency or institution;

14 (ii) an electronic funds transfer network;

15 (iii) wire;

16 (iv) facsimile;

17 (v) payment instrument; or

18 (vi) an informal value transfer system;

19 (B) selling, issuing, or acting as an intermediary for open-loop
 20 stored-value devices and payment instruments; or

21 (C) a virtual currency business activity;

22 (21) "money transmission license" means a license under
 23 AS 06.55.101 - 06.55.106;

24 (22) "money transmission licensee" means a person who holds a
 25 money transmission license;

26 (23) "Nationwide Multistate Licensing System and Registry" means a
 27 licensing system developed by the Conference of State Bank Supervisors and the
 28 American Association of Residential Mortgage Regulators and owned and operated by
 29 the State Regulatory Registry, LLC, or any successor or an affiliated entity, for the
 30 licensing and registration of persons in the mortgage and other financial services
 31 industries;

1 (24) "officer" means a president, a chair of the executive committee, a
 2 chief financial officer, a chief compliance officer, a responsible individual, or another
 3 individual who performs similar functions; in this paragraph, "responsible individual"
 4 means an individual who is employed by a money services licensee and has principal
 5 managerial authority over the provision of money services by the money services
 6 licensee in this state;

7 (25) "open-loop stored value" means stored value redeemable at

8 (A) multiple, unaffiliated merchants or service providers; or

9 (B) automated teller machines;

10 (26) "outstanding" means

11 (A) with respect to a payment instrument, a payment
 12 instrument that has been issued and sold in the United States directly by the
 13 licensee, or sold by an authorized delegate or subdelegate of the licensee in the
 14 United States and reported to the licensee, that has not yet been paid by or for
 15 the licensee;

16 (B) with respect to a stored value, a stored value that has been
 17 issued and sold in the United States directly by the licensee, or sold by an
 18 authorized delegate or subdelegate of the licensee in the United States and
 19 reported to the licensee, until the funds are deposited into the program's issuing
 20 bank account; or

21 (C) with respect to transmission, a money transmission for
 22 which the licensee, directly or through an authorized delegate of the licensee,
 23 has received money or monetary value from the customer for transmission, but
 24 has not yet completed the money transmission by delivering the money or
 25 monetary value to the person designated by the customer or refunded the
 26 money or monetary value to the customer;

27 (27) "payment instrument"

28 (A) means an electronic or written check, a draft, a money
 29 order, a traveler's check, or other electronic or written instrument order for the
 30 transmission or payment of money or monetary value, whether or not the
 31 instrument is negotiable;

1 (B) does not include a credit card voucher, a letter of credit, or
2 any other instrument that is redeemable by the issuer in goods or services;

3 (28) "payment system" means any system enabling the transfer of
4 funds between parties;

5 (29) "person" means an individual, a corporation, a business trust, an
6 estate, a trust, a partnership, a limited liability company, an association, a joint
7 venture, a government, a governmental subdivision, an agency, or instrumentality, a
8 public corporation, or any other legal or commercial entity;

9 (30) "record" means information that is inscribed on a tangible
10 medium or that is stored in an electronic or other medium and is retrievable in
11 perceivable form;

12 (31) "registry" means the Nationwide Multistate Licensing System and
13 Registry;

14 (32) "remit" means to do one or more of the following:

15 (A) make direct payment of the funds to the licensee or its
16 representatives authorized to receive those funds;

17 (B) deposit the funds in a bank, credit union, or savings and
18 loan association, or other similar financial institution in an account specified
19 by the licensee;

20 (33) "state" means a state of the United States, the District of
21 Columbia, Puerto Rico, the United States Virgin Islands, or a territory or insular
22 possession subject to the jurisdiction of the United States;

23 (34) "stored value"

24 (A) means monetary value that is evidenced by an electronic
25 record that is prefunded and for which value is reduced on each use;

26 (B) includes prepaid access; in this subparagraph,

27 (i) "prepaid access" means access to fund or the value
28 of funds that have been paid in advance and can be retrieved or
29 transferred at some point in the future through an electronic device or
30 vehicle;

31 (ii) "electronic device or vehicle" includes a card code,

1 electronic serial number, mobile identification number, or personal
2 identification number;

3 (C) does not include an electronic record that is primarily
4 intended to be redeemable only for goods or services from a specified
5 merchant or set of affiliated merchants, or others involved in transactions
6 functionally related to the issuer or its affiliates;

7 (35) "subdelegate" means an authorized delegate that provides limited
8 money services on behalf of a licensee without having a direct contractual relationship
9 with that licensee;

10 (36) "unsafe or unsound practice" means a practice or conduct by a
11 money services licensee or an authorized delegate or subdelegate of the money
12 services licensee if the practice creates the likelihood of material loss, insolvency, or
13 dissipation of the money services licensee's assets, or otherwise materially prejudices
14 the interests of the money services licensee's customers;

15 (37) "virtual currency"

16 (A) means a digital representation of value that does not have
17 legal tender status in the United States but

18 (i) can be digitally traded and functions as a medium of
19 exchange, a unit of account, a store of value; or

20 (ii) is incorporated into payment system technology;

21 (B) shall be broadly construed to include digital units of
22 exchange that

23 (i) have a centralized repository; in this sub-
24 subparagraph, "centralized repository" means a single third-party
25 administering authority that controls the system, issues the currency,
26 establishes the rules for the currency's use, maintains a central payment
27 ledger, and has authority to redeem the currency or withdraw it from
28 circulation; or

29 (ii) are decentralized, distributive, open-source, math-
30 based, peer-to-peer virtual currency with no central administering
31 authority and no central monitoring or oversight; or

(iii) may be created or obtained by computing or manufacturing effort;

(C) does not include digital units that are used

(i) solely within online gaming platforms with no market or application outside of those gaming platforms; or

(ii) exclusively as part of a customer affinity or rewards program, and can be applied solely as payment for purchases with the issuer or other designated merchants, and that cannot be converted into, or redeemed for, fiat currency;

(38) "virtual currency business activity" means the conduct of one or more of the following types of activities in this state or involving a resident of this state:

(A) receiving virtual currency for transmission;

(B) transmitting virtual currency;

(C) securing, storing, holding, or maintaining custody or control of virtual currency on behalf of others;

(D) buying and selling virtual currency as or through a third party;

(E) performing retail conversion services, including the conversion or exchange of fiat currency or other value into virtual currency, the conversion or exchange of virtual currency into fiat currency or other value, or the conversion or exchange of one form of virtual currency into another form of virtual currency; or

(F) controlling, administering, or issuing virtual currency.

* **Sec. 51.** AS 06.55 is amended to read:

Sec. 06.55.995. Short title. This chapter may be cited as the Alaska [UNIFORM] Money Services Act.

* **Sec. 52.** AS 12.62.400(a) is amended by adding a new paragraph to read:

(18) licensure as a money transmission licensee or a currency exchange licensee under AS 06.55.

* **Sec. 53.** AS 12.62.400 is amend by adding a new subsection to read:

(c) Notwithstanding (a) of this section, an applicant for a license under AS 06.55 may submit the applicant's fingerprints to the Nationwide Multistate Licensing System and Registry as defined in AS 06.55.990.

* **Sec. 54.** AS 06.55.103, 06.55.107, 06.55.404(g), 06.55.406(b), 06.55.607(f), 06.55.830, 06.55.840, 06.55.850(b), 06.55.850(c), 06.55.850(d), and 06.55.850(e) are repealed.

* **Sec. 55.** The uncoded law of the State of Alaska is amended by adding a new section to read:

TRANSITION: REGULATIONS. The Department of Commerce, Community, and Economic Development may proceed to adopt regulations to implement this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before July 1, 2016.

* **Sec. 56.** REVISOR'S INSTRUCTIONS. The Revisor of Statutes is requested to change the

(1) chapter heading of AS 06.55 from "Alaska Uniform Money Services Act" to "Alaska Money Services Act;"

(2) catch lines of

(A) AS 06.55.601 from "Suspension and revocation; receivership" to "Suspension and revocation of licensees; receivership"; and

(B) AS 06.55.602 from "Suspension and revocation of authorized delegates" to "Suspension and revocation of authorized delegates and subdelegates."

* **Sec. 57.** Section 55 of this Act takes effect immediately under AS 01.10.070(c).

* **Sec. 58.** Except as provided in sec. 57 of this Act, this Act takes effect July 1, 2016.