

ALASKA STATE LEGISLATURE

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House Bill 180-A Alaska Money Services Act Brief Sectional Analysis

This analysis focuses on the major changes proposed in the bill.
Money Transmission Licenses

Sections 1-2. AS 06.55.101. License required. Clarifies a license or exemption is needed to engage in money transmission business and a licensee must register with a designated national registry (streamlines the licensing process).

Section 3. AS 06.55.102. Application for license. Amends current provisions to move the detailed application information to regulations and adds requirements for criminal and civil background checks and authority to obtain a credit report for control person,

Section 4-7. AS 06.55.104. Security. Amends the current provision to require a surety bond in the amount required by the department up to \$1,000,000 issued by a company authorized to do business in the State of Alaska and allows the department to issue an order if the licensee fails to maintain a bond.

Section 8-11. AS 06.55.105. Issuance of license. Amends the current provisions to clarify the department may be reimbursed for any applicant investigation, may exclude any applicant, employee or independent contractor that is listed on certain designated lists, establishes December 31 as the license expiration/renewal date, provides a 120 day period for the department to approve or deny the application and retains the 30 day appeal period for a denial.

Section 12. AS 60.55.106. Renewal of license. Repeals and reenacts the current provision to move the detailed application information to regulations, requires the applicant report changes in previously provided information and any additional information requested by the department, provides a 60 day time period for the department to approve or deny the application and gives an applicant whose renewal is denied 30 days to request a hearing.

Section 13. AS 06.55.108. Annual assessment fee and annual report. Replaces the nominal, static annual renewal fee with a volume-based annual assessment fee, requires an annual report be submitted to the department, and assesses a fee for late filings or payment.

Currency Exchange Licenses

Sections 14-15. AS 06.55.201. License required. Clarifies a license or exemption is needed to engage in currency exchange and removes the unnecessary reference to an authorized delegate of a licensed money transmitter. Requires registration with a designated national registry (streamlines the licensing process).

Section 16. AS 06.55.202. Application for currency exchange license. Repeals and reenacts current provision to move the detailed application information to regulations and adds requirements for criminal and civil background checks and authority to obtain a credit report for each control person.

Sections 17-20. AS 06.55.203. Issuance of license. Amends the current provisions to clarify the department may be reimbursed for any applicant investigation, may exclude any applicant, employee or independent contractor that is listed on certain designated lists, establishes December 31 as the license expiration/renewal date, provides a 120 day period for the department to approve or deny the application and retains the 30 day appeal period for a denial.

Section 21. AS 06.55.204. Renewal of license. Repeals and reenacts the current provision to move the detailed application information to regulations, requires applicant report changes in previously provided information and any additional information requested by the department, provides a 60 day time period for the department to approve or deny the application and gives an applicant whose renewal is denied 30 days to request a hearing.

Section 22. AS 06.55.206. Security. (New) Requires a surety bond in an amount required by the department up to \$1,000,000 issued by a company authorized to do business in Alaska and allows the department to issue an order if the licensee fails to maintain a bond. Allows either a claimant against the licensee or the department to file an action on the bond and requires the bond to cover claims for at least five years after a currency exchange licensee no longer provides money services in Alaska.

AS 06.55.207. Annual assessment fee and annual report. (New) Replaces the nominal, static annual renewal fee with a volume-based annual assessment fee, requires an annual report be submitted to the department, and assesses a fee for late filings or payment.

Authorized Delegates

Sections 23-24. AS 06.55.301. Relationship between licensee and authorized delegate. Expands statutory references for scope of permissible activity of authorized delegate.

Section 25. AS 06.55.304. Limited authorization of subdelegate. (New) Allows a licensee to contract with another licensee to use another licensee's existing authorized delegate as a subdelegate to reload funds onto open-loop stored-value cards (prepaid cards) and requires the licensee to maintain all contracts related to the use of subdelegates as part of its books and records.

Examinations, Reports, Records

Section 26. AS 06.55.401. Authority to conduct examinations. Repeals and reenacts the current provisions for authority to examine, interview, or investigate; removes the 45-day advance notice

requirement and specifically authorizes joint examination and investigations with other regulators (language currently found in AS 06.55.402). Allows department to gather evidence relevant for a hearing or investigation and allows reimbursement of examination or investigation costs.

Section 27. AS 06.55.402. Cooperation; consultation. Amends current provisions which allow cooperation and consultation with other state and federal regulators and removes the joint examination language now proposed in AS 06.55.401.

Sections 28-30. AS 06.55.403. Reports. Removes the limitation of reporting only information about delegates and locations in the quarterly report and now includes relevant information about the licensee. Requires the licensee to notify the department within one day of most petition filings, lawsuits, bond cancellation, criminal charges, convictions against the licensee or authorized. Changes “executive officer” to “officer” for notification of a charge against or conviction of a person. Allows the department to assess a late fee or other consequence for failure to report as required.

Sections 31-32. AS 06.55.404. Change of control. Requires a 30-day advance notice of a change of control be submitted to the department along with any required fee. Removes the automatic approval of a change of control request if the department does not approve or deny the change of control within the 120 day time period.

Sections 33-34. AS 06.55.405. Records. Adds currency transaction reports and suspicious activity reports to the types of records to be retained. Extends the retention period from three to five years to align with federal record keeping laws and requires the records to be provided in a format established by the department.

Section 35. AS 06.55.406. Money laundering reports. Amended to align reporting requirements with federal law.

Sections 36-37. AS 06.55.407. Confidentiality. Allows the department to share information with state or federal agencies without giving prior notice to a licensee and expands the list of licensee information that may be publicly disclosed to include the address and name of contact individuals and authorized delegates.

Permissible Investments

Sections 38-39. AS 06.55.501. Maintenance of permissible investments. Clarifies that permissible investment market value calculations including the aggregate amount of outstanding payment instruments and stored-value obligations are subject to limitations imposed by the department. A permissible investment is held in trust for the benefit of persons owed an obligation by the money service business.

Enforcement

Section 40. AS 06.55.601. Suspension and revocation of licensees; receivership. Clarifies that the department may issue an order against a licensee if: (1) either the licensee or an authorized delegate is convicted of or violates certain provisions; (2) a fact or condition that may have been grounds for denial was not disclosed with the license application; (3) the licensee engaged in false, misleading, deceptive advertising, fails to timely pay a judgment or knowingly made a material misstatement or withheld material information. Amended to include a currency exchange licensee and expand criteria for determining whether a licensee is engaging in an unsafe or unsound practice to include the magnitude of potential loss as well as magnitude of the loss, gravity of the violation of this chapter, a regulation, an order, or action

against the licensee by this state, another state, or the federal government, and previous conduct of the person involved.

Sections 41. AS 06.55.602. Suspension and revocation of authorized delegates and subdelegates.

Amended to add “subdelegate” and expands the department’s ability to issue, suspend, or revoke the designation of an authorized delegate or subdelegate.

Section 42-45. AS 06.55.603. Administrative orders. Amended to change “cease and desist” to “administrative” order. Expands the reasons an administrative order may be issued. Allows a person to petition the superior court for a judicial order to modify the order pending completion of an administrative proceeding.

Sections 46-49. AS 06.55.607. Unlicensed persons. Amended to add subdelegate to unlicensed activity provisions and establishes an additional monetary penalty for unlicensed activity.

Administrative Procedures

Section 50. AS 06.55.702. Hearings. Amends by deleting reference to (b) since the hearing provision does not apply if the licensee fails to complete the renewal application requirements.

Miscellaneous Provisions

Section 51. AS 06.55.802. Exemptions. Amended to include insurance companies, title insurance companies, escrow agents, and attorneys as exempt from the provisions of this chapter provided the money transmission or currency exchange is ancillary to its typical services.

Section 52. AS 06.55.810. Notices required. Amended to clarify that a money services licensee must provide the required notice to customers at locations where no authorized delegate or subdelegate is designated to provide services; adds the requirement of a subdelegate to provide customer complaint resolution information at locations where they provide money services (currently only lists “authorized delegate”); and allows the department to establish the content of the required notices.

Section 53. AS 06.55.820. Transmission, receipt, and refund. Repealed and reenacted to require compliance with the Federal Remittance Transfer Rule for transmission, receipt, refunds, and any requirements established by the department.

Section 54. Adds new provisions:

AS 06.55.855. Virtual Currency. Describes how references to virtual currency are construed under this chapter.

AS 06.55.860. Compliance with federal requirements. Requires compliance with the listed federal laws related to money services businesses.

AS 06.55.870. Escheatment of property. Requires compliance with unclaimed property laws in Alaska.

AS 06.55.880. Application to Internet activities. Clarifies internet money services activity is regulated by this chapter.

AS 06.55.885. Open-loop stored-value reloads. Provides for reloads of open-looped stored-value cards by using Internet websites.

General Provisions.

Section 55. AS 06.55.900. Administration. Authorizes use of the Nationwide Multistate Licensing System and Registry for a variety of licensing and information purposes.

AS 06.55.910. Regulations. Authorizes the department to administer, interpret, and issue regulations pertaining to this chapter.

Section 56. AS 06.55.990(3). Amends the definition of “control” to lower ownership or voting power from 25% to 10% and adds the requirement of aggregating ownership interest for immediate family members when determining controlling interest in a business to include a spouse, parent, or child; and further clarifies the definition of “control”.

Section 57. AS 06.55.990(5). Amends “currency exchange license” to reflect updated citation.

Section 58. AS 06.55.990(15). Repeals and reenacts “money transmission” to include currency, funds, or other value that substitutes for currency; selling, issuing, or acting as an intermediary for open-loop stored-value devices and payment instruments, an informal value transfer system and virtual currency business activities to the definition.

Section 59. AS 06.55.990(16). Amends “money transmission license” to reflect updated citation.

Section 60. AS 06.55.990(18). Repeals and reenacts “outstanding” to expand the definition in the context of payment instruments, stored-value obligations and money transmission.

Section 61. AS 06.55.990(19). Amends “payment instrument” to include an electronic or written instrument.

Section 62. AS 06.55.990(20). Amends “person” to include a governmental agency and a governmental instrumentality.

Section 63. AS 06.55.990(23). Amends “stored-value” by clarifying that it is prefunded and for which value is reduced on each use; access to funds may be retrieved or transferred in the future through an electronic device or vehicle; and it does not include an electronic record that is primarily intended to be redeemable only for goods or services from a specified merchant or set of affiliated merchants.

Section 64. AS 06.55.990(24). Amends “unsafe or unsound practice” to include all money services licensees and a subdelegate (currently limited to a money transmission licensee and authorized delegate).

Section 65. AS 06.55.990. Adds the following definitions. (25) applicant, (26) currency, (27) fiat currency, (28) funds, (29) medium of exchange, (30) money laundering, (31) officer, (32) open-loop stored-value, (33) payment system, (34) registry, (35) subdelegate and (36) virtual currency.

Section 66. AS 06.55.995. Short title. Removes “Uniform” from the title of the Act.

Sections 67-68. Adds provisions relating to background checks in AS 12.62.400.

Section 69. Enumerates provisions repealed.

Section 70. Provides for transition regulations.

Section 71. Revisor's Instructions.

Section 72. Section 70 takes effect immediately.

Section 73. Effective date is July 1, 2017, except as provided in Section 72.