



SENATOR JESSE KIEHL

SB 86: Money Transmission; Virtual Currency

Sectional Analysis

Sec. 1: Explains the purpose of the bill.

Sec. 2: Amends AS 06.05.101(a) requires a license to engage in the business of money transmission (MT). The amendment inserts a citation to the exemption statute, AS 06.55.802, and clarifies that an authorized delegate may not engage in MT if the actions taken are outside the scope of the exemption

Sec. 3: Repeals and reenacts AS 06.55.102 to conform with the Model Law providing application requirements for a MT license and allows the Department of Commerce, Community, and Economic Development (DCCED or the department) to change or update the forms be consistent with licensing requirements in NMLS.

Sec. 4: Repeals and reenacts AS 06.55.105 to conform with the Model Law and provides that if the applicant is subject to a multistate licensing process, the department may accept investigation results of the lead investigation state

Sec. 5: Repeals and reenacts AS 06.55.106 to conform with the Model Law changing license renewal, renewal reporting and renewal terminology. Fees collected at the time of renewal will change with details to be prescribed by the department through regulation.

Sec. 6: Amends AS 06.55 to add new sections AS 06.55.108, AS 06.55.109, and AS 06.55.110 to Article 1 to conform with the Model Law. AS 06.55.108 states that licensees must continue to meet the qualifications that apply to new applicants and states that the department may suspend or revoke a license if a licensee fails to do so.

AS 06.55.109 contains submission requirements for individuals in control of applicants or licensees, and key individuals defined by the bill. Criminal background check report

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requirements are also included for individuals who have resided outside of the United States (US) in the last ten years.

AS 06.55.110 grants the department discretion to:

1. Implement licensing provisions consistent with other states that have adopted a multistate licensing process;
2. establish relationships or contracts to collect and maintain records, coordinate licensing, process fees, and communicate with licensees, and
3. utilize the NMLS for all aspects of licensing.

Sec. 7: Amends AS 06.55 to add Article 1A Virtual Currency Business Activity derived from the Model Law. AS 06.55.150 – 06.55.170 provide the details of what is considered and what is not considered licensed activity for companies engaging in Virtual Currency (VC) business activity. The bill will allow regulation and supervision of persons that issue VC or that provide services that allow others to transfer VC, provide exchange services to the public, or offer to take custody of VC for other persons.

AS 06.55.150 provides that VC business activity is MT and unless exempt, the activity requires a MT license.

AS 06.55.155 concerns required disclosures granting the department discretion to require additional disclosures and to regulate the time and form required for disclosure.

AS 06.55.160 requires VC business with control over VC to maintain an amount of each type of VC sufficient to satisfy the aggregate entitlements of the persons to each type of VC ensuring consumer protection and reducing regulatory burden on the licensee without increasing net worth requirements.

AS 06.55.165 allows a licensee engaged in VC business activity to include VC in its tangible net worth calculation and details record keeping requirements specific to VC businesses.

AS 06.55.170 contains a list of exempted activities and provides an exemption for business activity of \$5,000 or less.

Sec. 8: Repeals and reenacts AS 06.55.301 creating a requirement that a licensee adopt policies and procedures consistent with applicable state and federal law prior to using an authorized delegate and provides details stating that a licensee must enter into a contract with an authorized delegate with a list of provisions.

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Sec. 9: Amends AS 06.55.302 concerning unauthorized activities and liability provisions that apply to persons engaging in MT on behalf of an unlicensed person.

Sec. 10: Amends AS 06.55.401 relating to supervision and the department's powers with respect to examination. It allows the department to accept examination reports from other states, the federal government, or an independent accounting firm. This section requires licensees to pay all costs associated with examinations, references confidentiality requirements, and eliminates the existing requirement to notify a licensee 45 days prior to an examination.

Secs. 11 – 14: Repeals and reenacts or amends subsections of AS 06.55.403 for consistency with the Model Law. It requires quarterly reports of condition for a licensee's activities and their authorized delegates. It maintains existing requirements for immediate reporting knowledge of filing a bankruptcy petition, a proceeding to revoke or suspend a license in another state or country, bond cancellation and criminal charges. Allows the department to utilize the NMLS for reporting required by AS 06.55.403.

The term "executive officer" is replaced with "key individual," a term introduced by the Model Law which means "any individual ultimately responsible for establishing or directing policies and procedures of the licensee, including an executive officer, manager, or trustee."

Sec. 15: Repeals and reenacts AS 06.55.404 regarding acquisition of control of a MT licensee containing procedural and reporting requirements for the acquisition or transfer of control of licensees. It allows exceptions for acquisition of control and contains discretionary provisions for the department for ease and flexibility of administration and the utilization of the NMLS. It adds details for aggregation of interest of ownership for family members for consistency with the Model Law.

Secs. 16 and 17: Amends AS 06.55.405(a) and (d) for consistency with the Model Law. It details record keeping obligations of licensees, increasing the time period from 3 years to 5 years, and makes conforming language changes.

Sec. 18: Amends AS 06.55.406(a) concerning money laundering reports retitling the heading to Bank Secrecy Act reports for consistency with the Model Law. Remove the requirement that certain money laundering, record keeping, and suspicious transaction reporting requirements be filed with the Attorney General.

Sec. 19 – 22: Amends AS 06.55.407 for consistency with the Model Law.

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AS 06.55.407(d) was retained and slightly amended because it contains guidance that is helpful regarding when a licensee or authorized delegate may disclose financial information provided to the licensee or authorized delegate by a customer.

Sec. 23: Adds a new subsection (f) to AS 06.55.407 stating when department records may be made public and what information is confidential.

Sec. 24: Amends AS 06.55 to add new sections to article 4 from the Model Law.

AS 06.55.408 requires licensees to submit an annual audited financial statement to the department within 90 days after the end of the licensee's fiscal year.

AS 06.55.409(a) grants the department discretion to enter into agreements with other state and federal agencies to improve efficiencies and reduce regulatory burden.

AS 06.55.409(b) grants the department broad discretion to administer, interpret, and enforce the chapter, to adopt rules and regulations, and to recover its costs through imposition and collection of fees.

AS 06.55.410 expands the department's ability to participate in multistate supervisory processes such as joint investigations.

AS 06.55.411 provides that in the event of an inconsistency between state and federal law, the federal law governs to the extent of the inconsistency.

AS 06.55.412 contains the requirements and procedures applicable when a licensee adds or replaces a key individual allowing the department to disapprove a change of key individual due to certain criteria.

Secs. 25 – 30: Revises article 5 of AS 06.55 to rename and broaden its scope from Permissible Investments to Prudential Standards. Two existing sections (AS 06.55.104 and 06.55.107) are repealed and reenacted, as revised, to fit in the new article. The level of permissible investments required by a licensee are detailed in AS 06.55.502.

Sec. 25: Amends AS 06.55.501 to allow the department to limit specific investments held by licensees due to risk concerns, with the exception of permissible investments listed in AS 06.55.102. AS 06.55.501(c) adds language to protect beneficiaries of statutory trusts from actions by creditors of licensees.

Sec. 26: Amends AS 06.55.501 to add a new subsection (d) regarding the establishment and termination of statutory trusts and related department obligations. Subsection (e) was added,

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and it allows the department to allow additional permissible investments and to participate with other state regulators to identify permissible investments.

Sec. 27 – 28: Amends subsections (a) and (b) of AS 06.55.502 concerning permissible investments for consistency with the Model Law.

Subsection (a) does the following:

1. Incorporates ACH items in transit to licensees and payees, cash in transit via armored car, cash in smart safes, etc. ACH funds are in the banking system and the Model Law defines cash in transit via ACH as a permissible investment;
2. allows letters of credit as a permissible investment; and
3. allows excess bonding as a permissible investment type.

Subsection (b) is repealed and reenacted to include a list of investments that are permissible up to a certain

aggregate value for each investment category as a component of a licensee's total investment portfolio.

Sec. 29: Amends AS 06.55 to add a new sections to article 5.

AS 06.55.503 contains the requirements for letters of credit to align with the
Model Law.

AS 06.55.505 proposes applicable forms of security (AS 06.55.104) and is a hybrid of the Model Law and the existing Act. It requires a licensee to hold a security bond or with the department's approval, a deposit, with a maximum amount of \$1,000,000 and be maintained for no less than 5 years with the details to be determined by the department in regulation or order.

AS 06.55.506 provides a significant expansion of net worth requirements from \$25,000 to a new net worth based on a tiered level of total assets held, requiring a licensee to demonstrate net worth at application. It also allows the department to exempt applicants or licensees from net worth requirements.

AS 06.55.510 provides a requirement to maintain at all times a tangible net worth in tiers. It must be demonstrated at initial application. The department may exempt an applicant, in whole or in part, from the requirements of this section.

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Sec. 30: Amends AS 06.55.601 for consistency with the Model Law regarding the suspension and revocation of a license by deleting unnecessary language and inserting new terms such as key individual and the replacement of transmission for services.

Sec. 31: Amends AS 06.55.601 by adding a new subsection (c) that allows a licensee to apply for relief from a suspension or revocation of a license.

Sec. 32: Amends AS 06.55.602 for consistency with the Model Law, replacing money services with money transmission.

Sec. 33: Amends AS 06.55.602 by adding a new subsection (c) for consistency with the Model Law allowing an authorized delegate to apply for relief from a suspension or revocation of a license.

Secs. 34 – 36: Amends AS 06.55.603 for consistency with the Model Law conforming language such as deleting money services and inserting money transmission.

Sec. 37: Amends AS 06.55.605 regarding civil penalties allowing the department to assess its costs and expenses for investigation.

Sec. 38: Amends AS 06.55.606(b) for consistency with the Model Law conforming language such as deleting money services and inserting money transmission.

Sec. 39: Amends AS 06.55.606(c) for consistency with the Model Law conforming language such as deleting money services and inserting money transmission.

Secs. 40 – 41: Amends subsections of AS 06.55.607 to remove citations to AS 06.55.201, which is repealed. The existing AS 06.55.201 contains the currency exchange license requirements and this license is being eliminated in the bill in favor of one license type including currency exchange as a money transmission activity.

Sec. 42: Amends AS 06.55.702(a) concerning hearings for consistency with the Model Law deleting money services and a citation to AS 06.55.702(b) which is repealed in the bill.

Sec. 43: Amends AS 06.55.802 for consistency with the Model Law revising licensing exclusions and renames the section to exemptions. It adds new exemption types and would allow the department to add additional exemptions if it is in the public interest creating consistency from state-to-state. It also adds the term federally insured depository financial institution for consistency with other statutes the division regulates under AS 06.60.990(9).

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Sec. 44: Amends AS 06.55 by adding a new section AS 06.55.803 allowing the department to require a person who claims an exemption to provide information and documentation demonstrating the claimed exemption.

Sec. 45: Amends AS 06.55.810 regarding notices requiring licensees and authorized delegates to provide customers with notices of how to file a complaint and allows the department to establish the format and content required in the notices.

Sec. 46: Amends AS 06.55.810 by adding a new subsection (d) that requires licensees and authorized delegates include on a receipt or through disclosure on the licensee's website or mobile application, the name and phone number of the department and a statement on how customers can contact the department with questions or complaints.

Sec. 47: Amends AS 06.55 by adding a new section AS 06.55.815 concerning in-state determination of the location of a person requesting a transaction.

Sec. 48: Repeals and reenacts AS 06.55.830 regarding receipts for consistency with the Model Law. Subsections (a) – (b) include content and format requirements for transaction receipts and define receipt. Receipts are required to be in English and any other language principally used by the licensee or authorized delegate to negotiate a transaction. Subsection (c) describes exceptions to the receipt requirement including stored value. Subsection (d) provides a definition of receipt.

Sec. 49: Amends AS 06.55 to add a new section, AS 06.55.835 concerning timely transmission requiring licensees to forward money received for transmission in accordance with the agreement between the licensee and sender unless the licensee determines there may be fraud involved or another crime. The licensee is required to respond to inquiries from the sender with the reason for the failure to forward money unless doing so violates a state or federal law.

Sec. 50: Repeals and reenacts AS 06.55.840 concerning refunds for consistency with the Model Law.

Sec. 51: Amends AS 06.55.850(b) for consistency with the Model Law. The amendment states the department shall establish fee levels.

Sec. 52: Amends AS 06.55.850 by adding a new subsection (f) to set an annual renewal fee based on a licensee's total volume of money transmission in the state.

Secs. 53 – 60: Amends definitions found in AS 06.55.990 for consistency with the Model Law. Changes include the incorporation of the words in this state to ensure AS 06.55 protects Alaska

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consumers and insuring revisions are made to align the language of the Act with the model law. It also includes an exception for a loyalty reward card, amends the definition of control.

Sec. 61: Amends by adding new paragraphs AS 06.55.990 to renumber and add definitions for terms introduced by the Model Law including the following terms:

- Accredited state
- Acting in concert
- Average daily money transmission liability
- Bank Secrecy Act
- Closed loop stored value
- Control of virtual currency
- Dollar equivalent
- Eligible rating
- Eligible rating service
- Federally insured depository financial institution
- Individual
- In this state
- Key individual
- License
- Licensee
- Money received for transmission
- Multistate licensing process
- Outstanding money transmission obligation
- Registry
- Tangible net worth
- Virtual currency
- Virtual currency administration

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- Virtual currency business activity
- Virtual currency control services vendor
- Virtual currency exchange
- Virtual currency transfer

Sec. 62: Amends AS 06.55.995 Short title to refer to the Act or Chapter as the Alaska Uniform Money Transmission Modernization Act instead of the Alaska Uniform Money Services Act.

Sec. 63: Amends AS 12.62.400(b) to read that an applicant under AS 06.55 may submit fingerprints to the registry.

Sec. 64: Repeals several sections in AS 06.55. AS 06.55.104 and AS 06.55.107 are repealed and reenacted in Article 5 concerning prudential standards. All statutes in article 2 regarding currency exchange licenses are repealed as the activity was added to the definition of money transmission. AS 06.55.890 and AS 06.55.990 contains definitions that are no longer necessary.

Secs. 65 – 67: Amends by adding a new section for an INDIRECT COURT RULE AMENDMENT and transitional provisions amending uncoded law to avoid interference with existing contracts, to allow a transitional period for holders of existing money services licenses.

Sec. 68: Adds a new section to uncoded law CONDITIONAL EFFECT to specify that Sec. 37 takes effect only if the indirect court rule amendment receives the necessary two-thirds vote.

Sec. 69: Provides for an effective date of January 1, 2026.