

SB

116

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSSB 116(L&C)
(S) Publish Date: 4/4/07

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
Title Uniform Money Services Act RDU Banking & Securities (536)
Component Banking & Securities
Sponsor Elton
Requester Senate Labor & Commerce Component No. 2808

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services	46.5	46.5	46.5	46.5	46.5	46.5
Travel	2.5	2.5	2.5	2.5	2.5	2.5
Contractual	28.0	28.0	28.0	28.0	28.0	28.0
Supplies	1.0	1.0	1.0	1.0	1.0	1.0
Equipment	2.0	2.0	2.0	2.0	2.0	2.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	80.0	80.0	80.0	80.0	80.0	80.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1156)	80.0	80.0	80.0	80.0	80.0	80.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipt's						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1156 Receipt Supported Services	80.0	80.0	80.0	80.0	80.0	80.0
TOTAL	80.0	80.0	80.0	80.0	80.0	80.0

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time	1	1	1	1	1	1
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation would require the licensing and regulation of entities involved with the transmission of money or currency exchanges. The division estimates there will be about 40 businesses subject to licensure and examination each year under the bill. The division assumes that many of the money transmitter businesses operating in the state will be subject to dual licensure as they are affiliated with a large national money transmitter company, such as Western Union. Alaska currently does not regulate this industry. The division anticipates the need for the addition of one-half of a new Investigator II position to carry out regulatory duties mandated by the Act, such as, licensing, complaint investigations and conducting on-site examinations. Travel funds would cover cost of the travel associated with examinations and training. Contractual expenses include funds for the Department of Law to draft legal documents, represent the division at administrative hearings resulting from license revocations/disciplinary actions, and enforcement orders.

Prepared by: Mark Davis, Director
Division: Banking and Securities
Approved by: Emil Notti, Commissioner
Agency: Commerce, Community, and Economic Development

Phone 907.269.8144
Date/Time 3/26/07 12:59 PM
Date 3/26/2007

STATE OF ALASKA
2007 LEGISLATIVE SESSION

BILL NO. CSSB 116(L&C)

ANALYSIS CONTINUATION

Revenue: The division estimates this legislation would generate \$80.0 in each of the first two years due to the initial licensing of an estimated 40 licensees at \$2.0 per licensee. In years 3 and 4, it is estimated there will be an increase in the number of licensees from 40 to 50. In years 5 and 6, it is estimated there will be an increase in the number of licensees from 50 to 60. Because this legislation would require the department to establish fee levels so that the total amount of fees collected would approximately equal total regulatory costs, licensing fees would be expected to drop after the first two years.

5-12-07

adopted

Bannister
5/6/07

AMENDMENT |

By:
Meyer By Request
Chenault

OFFERED IN THE HOUSE

TO: CS SB 116 (FEN)

1 Page 16, following line 19:

2 Insert new subsections to read:

3 "(d) A money services licensee or an authorized delegate may not disclose to
4 another person financial information provided to the money services licensee or the
5 authorized delegate by a customer except when, and only to the extent that, the
6 disclosure is

7 (1) authorized in writing by the customer;

8 (2) required by federal, state, or local law;

9 (3) required by an order issued by a court or an administrative agency;

10 or

11 (4) part of the money services transaction ordered by the customer.

12 (e) In (d) of this section, "financial information" means an individual's social
13 security number, individual taxpayer identification number, account number, credit
14 card account number, debit card account number, personal identification number,
15 payment instrument number, or access code."



SENATOR KIM ELTON

SB 116 – Uniform Money Services Act

Sponsor Statement

SB 116 protects the public, strengthens the money services industry, and enhances law enforcement. It creates safety and soundness regulations for money transmitters and currency exchangers. The bill, suggested by the industry, is based on a model act by the National Conference of Commissioners on Uniform State Laws.

The bill guarantees consumers certain information when they buy a money transfer, gives them a place to make complaints, and ensures money Alaskans send will be delivered if a money services business (MSB) gets into financial trouble.

The bill establishes a two-tiered system of licenses. A money transmission license allows a person to both transmit money and exchange currency. A currency exchange license allows only currency exchange. License fees will cover the cost of regulation, and investigations will be funded by the industry, making the bill a net zero to the state.

The federal government identified MSBs as susceptible to use for money laundering and terrorist financing. The vast majority of MSBs are legitimate and work very hard to prevent criminals from using their businesses. The industry believes this basic regulation bill will prevent, and help law enforcement weed out, the rare exception.

I respectfully ask for your support.

May 12, 2007 - Saturday

9:00 am

SB 116-UNIFORM MONEY SERVICES ACT

Amendment 1

✓ Senator Elton/Jesse Kiehl, Staff

Teleconference

Ezra Levine, Money Transmitters Round Table

David-Landsman, National Money Transmitters Association

✓ Grant Callow, Commissioner, National Conference of Commissioners on
Uniform State Laws

Questions via Teleconference

✓ Roger Prince, Securities Examiner, Commerce

Handwritten notes:
No. 116-1000
4/11/07
11:00 am

Committee Action on Legislation

COMMITTEE H. Finance
N. Thomas SECRETARY

DATE: 5-12-07
PAGE 1 OF 1

SHORT TITLE

CSSB 116 (FIN)

ACTION TAKEN ON LEGISLATION

- Moved Out of Cmte
- Moved CS () Out of Cmte
- Moved HCS (FIN) Out of Cmte
- Heard and Held
- Heard and Held; Assigned to Subcmte
- Scheduled but not Heard
- Failed to Move Out of Committee
- Waived Out of Committee

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Bannister
5/6/07

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By:
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Chevalier

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2 Insert new subsections to read:
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7 (1) authorized in writing by the customer;
8 (2) required by federal, state, or local law;
9 (3) required by an order issued by a court or an administrative agency;
10 or
11 (4) part of the money services transaction ordered by the customer.
12 (e) In (d) of this section, "financial information" means an individual's social
13 security number, individual taxpayer identification number, account number, credit
14 card account number, debit card account number, personal identification number,
15 payment instrument number, or access code."




SENATOR KIM ELTON

MEMORANDUM

May 9, 2007

To: Representative Kevin Meyer, Co-Chair
House Finance Committee

From:  Kim Elton

Re: Sectional Analysis, SB 116

Because SB 116 adds significant new sections to the Alaska statutes, this sectional analysis differs from the traditional format. In addition to discussing the bill by section, it will briefly describe each new section of law created by Sec. 1.

This sectional analysis describes the blank CS presented for the committee's consideration.

SB 116 enacts the Uniform Money Services Act, drafted by the National Conference of Commissioners on Uniform State Laws. While the NCCUSL model act also regulates the business of check cashing, SB 116 does not.

Sec. 1 of the bill creates a new Chapter 55 in Article six of the Alaska Statutes: the Alaska Uniform Money Services Act:

Article One of the chapter regulates the practice of money transmission.

Section 101 of AS 06.55, requires any individual or business that provides money transmission services to have a license. This license allows provision of both money transmission and currency exchange. This license is not transferable.

Section 102 lays out the requirements to apply for a money transmitter license.

Section 103 allows a money transmitter or currency exchanger licensed in another state to hold a license in Alaska if the other state has enacted the Uniform Money Services Act, or other licensing laws approved by the department. These applicants must pay the appropriate fees. The section sets a deadline for the department to make a decision, which can be extended for cause. A money services business licensed under this section is subject to all the

reporting and compliance requirements of the Alaska act. An applicant under this section may appeal a denial.

Section 104 lays out security requirements to protect the public from a money transmitter bankruptcy. The department has the flexibility to accept certain assets in lieu of a bond. A security pledged to meet this requirement will ensure money orders or stored value obligations outstanding at the time of bankruptcy are honored.

Section 105 requires the department to investigate an applicant for a money transmission license. It sets a deadline for the department to make a decision, which can be extended for cause. The department may conduct an on-site investigation at the applicant's cost. An applicant may appeal a denial. This section does not apply to an initial license application under section 103.

Section 106 requires a licensed money transmitter to submit an annual report along with a license renewal fee. The section spells out the information required in the report, and establishes late fees. The department may extend the renewal date for good cause.

Section 107 requires a money transmitter to maintain a net worth of at least \$25,000.

Article Two of the chapter regulates the practice of currency exchange.

Section 201 requires any individual or business that provides currency exchange services and is not licensed under article 1, or an authorized delegate of a licensee, to have a currency exchange license. These licenses are not transferable. An exception is made if less than five percent of total revenues come from currency exchange.

Section 202 lays out the requirements to apply for a currency exchange license.

Section 203 requires the department to investigate an applicant for a currency exchange license. It sets a deadline for the department to make a decision, which can be extended for cause. The department may conduct an on-site investigation at the applicant's cost. An applicant may appeal a denial.

Section 204 requires a licensed currency exchanger to submit a biennial report along with a biennial license renewal fee. The section spells out the information required in the report, and establishes late fees. The department may extend the renewal date for good cause.

Article Three of the chapter governs authorized delegates.

Section 301 describes the relationship between a licensee and an authorized delegate. The contract between licensee and authorized delegate must require the authorized delegate to follow the laws governing money service businesses. An authorized delegate must remit money to the licensee according to the contract. An authorized delegate holds money in trust for the licensee. This section also requires the department to notify an authorized delegate when the license under which they operate is suspended, revoked, or not renewed. It prohibits an authorized delegate from providing money services beyond what is permitted to the licensee on whose behalf the authorized delegate operates unless the authorized delegate holds its own money transmission license. It prohibits the use of subdelegates.

Section 302 prohibits an authorized delegate from providing money services for anyone not licensed under the act.

Article Four of the chapter describes the department's investigation and enforcement authority.

Section 401 establishes the notice the department must give a money services licensee before an annual examination, and the circumstances under which the department can examine a licensee without notice. A licensee bears the reasonable cost of an examination. Information from examinations is confidential.

Section 402 lets the department cooperate with other states' money services regulators for joint investigations and enforcement activities.

Section 403 lays out when a licensee must make reports beyond the license renewal report. These include quarterly reports, material changes in license application information, and criminal charges and convictions, among others.

Section 404 specifies what must occur when a licensee has a change of control, including deadlines for reporting to the department. The department is given a deadline for deciding whether to approve a change of control. This section makes clear that a public sale of securities does not constitute a change of control, and allows a person to ask the department's to determine in advance whether a business transaction would constitute a change of control.

Section 405 lists the records a licensee must maintain for a period of three years, and lets the department include other records by regulation. These records must be available for inspection by the department.

Section 406 requires licensees and authorized delegates to file federally mandated money laundering, suspicious activity, and other reports with the Alaska Department of Law. This requirement is satisfied by timely filing of these

reports with the federal government, as long as the federal authorities continue their current information sharing with state law enforcement.

Section 407 exempts records collected and reports prepared by the department under this act from disclosure under the Public Records Act, and lets the department share information with other government agencies that agree to protect the confidentiality of the information. The department may release a list of licensees, as well as aggregated financial data.

Article Five of the chapter describes certain investments a licensee may make.

Section 501 requires a licensee to maintain permissible investments at least equal to the face value of outstanding obligations. Investments are held in trust for the benefit of the purchasers and holders of the licensee's outstanding obligations.

Section 502 lists permissible investments. While some categories of investment are unlimited, the section sets maximum proportions of certain other investments a licensee may hold as allowable investments. The department has the power to add to the list by regulation.

Article Six of the chapter governs enforcement.

Section 601 describes the circumstances under which the department may revoke or suspend a money services license, place a licensee in receivership, or order a licensee to revoke an authorized delegate's designation.

Section 602 describes the circumstances under which the department may suspend or revoke an authorized delegate's designation.

Section 603 provides rules under which the department may issue a 'cease and desist' order to a licensee or authorized delegate in order to protect the public, and provides for judicial relief.

Section 604 allows enforcement matters to be settled using a consent decree.

Section 605 permits the department to issue civil fines for violations of statute, regulation, or orders under this act. It sets a maximum daily fine.

Section 606 establishes criminal penalties for intentionally falsifying records under this act, among other things. It also makes engaging in money services without the appropriate license a class A misdemeanor or class C felony, depending on how much is transmitted in a 30-day period.

Section 607 allows the department to issue an order to show cause against anyone providing money services without a license. It allows the department to

petition the Superior Court for a restraining order, and lets a person subjected to such an order appeal to the superior court for relief. An order to cease and desist expires in 10 days unless the department commences administrative action under the act.

Article Seven of the chapter governs administrative proceedings.

Section 701 specifies that administrative proceedings under the act are subject to the Administrative Procedure Act, but the Office of Administrative Hearings shall conduct hearings.

Section 702 provides a due process right to a hearing for a licensee or authorized delegate who is the subject of a suspension, revocation, or other administrative sanction, subject to other provisions of the act. An applicant whose application is denied is also entitled to a hearing.

Section 703 gives the department the power to administer oaths and issue subpoenas, compel the attendance of witnesses and production of documents in conjunction with an investigation under the act. The department may ask the superior court to compel a person to obey its subpoenas.

Article Eight of the chapter lays out miscellaneous provisions.

Section 801 instructs those who administratively apply or judicially construe the act to do so with an eye toward uniformity among the states that adopt the Uniform Money Services Act.

Section 802 excludes some entities that may transmit money or exchange currency from regulation under the act. These include governments, banks, and others, including federally regulated brokers and commodity exchanges to the extent the money transfer or exchange is incidental to their primary business.

Section 810 requires licensees and authorized delegates to post a notice in plain view of the public, giving the address and telephone number of the department in case of consumer complaints.

Section 820 sets an upper limit of ten days for a licensed money transmitter or an authorized delegate to make the funds available to the intended recipient, unless the licensee or authorized delegate has reason to believe the transmission involves criminal activity or the customer orders a faster or slower service.

Section 830 requires a licensed money transmitter or currency exchanger, or an authorized delegate, to give the customer a receipt listing the amount presented, the fees, and the terms of exchange, if the transmission will be redeemed in a foreign currency.

Section 840 requires a licensed money transmitter or an authorized delegate to give a refund unless the money has already been transmitted, the licensee has reason to believe a crime is involved in transmitting or refunding the money, or the licensee is otherwise barred by law from making a refund.

Section 850 instructs the department to set fees and investigation charges that equal the department's actual costs in regulating and investigating money services licensees. These fees will be set by regulation under the Administrative Procedure Act and must be reviewed every year.

Section 890 defines certain terms as they are used only in sections 820-840.

Article Nine of the chapter lays out general provisions.

Section 990 defines terms used in the act.

Section 995 gives the act a short title: the Alaska Uniform Money Services Act.

Sec. 2 of the bill applies the act to money services provided after July 1, 2008. This will allow businesses adequate time to get licensed and give the department time to investigate applicants and issue licenses.

Sec. 3 allows the department to promulgate regulations and have them in place before the licensure requirements of the act go into effect.

Sec. 4 lets the department begin work on regulations immediately.

Sec. 5 makes the licensure and other requirements of Section 1 effective July 1, 2008.

Major Changes in SB 116

Changes in the Senate Labor & Commerce Committee:

- Cleared up ambiguous language in the model act that could have been interpreted as allowing money transmitters "approved" to operate in Alaska by virtue of licensure in another Uniform Act state (06.55.103) to escape certain fees and reports by:
 - Making these transmitters licensees under the Alaska act
 - Subjecting them to the same fees as other licensees
 - Requiring the same renewal and ongoing reports as other licensees.
- Strengthened consumer protections by:
 - Requiring a notice posted at each location money services are provided telling consumers where they can make complaints (06.55.810)
 - Setting an upper limit of 10 days on the time allowed for transmission, unless the consumer orders a faster service (06.55.820)
 - Guaranteeing the consumer a receipt listing all fees and the terms of exchange, if a money transmission involves a foreign currency (06.55.830)
 - Guaranteeing the consumer a refund if the money has not yet been delivered. (06.55.840)

Changes in the Senate Finance Committee:

- Ensured money transmitters who seek licensure in Alaska by virtue of licensure in another Uniform Act state (06.55.103) are entitled to a hearing if their application is denied.
- Clarified vague language to ensure first-year license fees paid by money transmitters licensed in Alaska by virtue of licensure in another Uniform Act state (06.55.103) are included in the 'net neutral' calculation of fees under section 06.55.850.
- Fixed a drafting error that exempted money transmitters licensed in Alaska by virtue of licensure in another Uniform Act state (06.55.103) from the net worth requirement of 06.55.107.
- Clarified who is responsible for posting the notice required under 06.55.810.
- Reinstated the model act's definition of "bank" after the U.S. Supreme Court's decision in *Waters v. Wachovia*. This effectively exempts 'credit card banks' from the bill, per the high court's decision.



The National Money Transmitters Association, Inc.

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March 19, 2007

Senator Johnny Ellis
Labor & Commerce Committee Chair
State Capitol
Juneau, AK 99801
Fax (907) 465-2529
Sen.Johnny.Ellis@legis.state.ak.us

By mail, email and fax (1 page)

Re: Request for a Hearing on the proposed Uniform Money Services Act (SB 116)

Dear Senator Ellis:

The NMTA was founded in 1999 to defend the rights and the very survival of the state-licensed remittance companies of the United States. Currently, we have 44 member companies that, in the aggregate, handle over \$19 billion a year in migrant worker remittances.

When a transmitter lives in a state that has no license requirement, the NMTA relaxes its rules if he seems OK. One of our money transmitter members, Mr. Allyn Moore, a resident of Alaska, has been shut out of the banking system on 'anti-money laundering compliance grounds.' This was not due to any failing on his part, but because the Federal government says that all money services businesses are high-risk.

Without banking facilities, Mr. Moore is out of business, so he would like Alaska to pass a money transmitter law. What does state licensing of money services businesses have to do with Mr. Moore getting his bank account back?

The first step on the road to recognition for small-to-mid-size money transmitters like Mr. Moore, is getting a state license. Since, in 1994, the US Congress decided to leave the regulation of money services businesses to the individual states, there is no federal certification available. We are very grateful to Senator Kim Elton, who introduced the subject Uniform Money Services Act, for his assistance in taking this first step.

The banking crisis we are going through is of immediate concern, but forty-seven states have decided to regulate money transmission or check selling for other compelling reasons:

- To protect the consumer and instill public confidence in the industry
- To assure transparency and disclosure in price and service
- To assure the safety and soundness of the supervised firms
- For the prevention and detection of financial crime

For all these reasons, we ask that you hold a hearing as soon as possible on the need for regulation of the Money Services Industry in Alaska and the need to bank these businesses. The NMTA supports SB 116, and urges its passage as soon as possible.

Please call me with any questions you may have, and thank you for your attention. The NMTA stands ready to help in any way we can.

Sincerely,

David Landsman
Executive Director

cc: Mr. Joseo Kiehl

email: david@nmta.us
cellular: (917) 921-0529

Alaska Bankers Association

P.O. Box 100720 • Anchorage, Alaska 99510-0720 • 907-777-3011 • Fax 907-777-3029

April 12, 2007

Honorable Kim Elton
Alaska Senate
State Capitol, Room 506
Juneau, AK 99801-1182

Re: SB 116 – Uniform Money Services Act

Dear Senator Elton:

On behalf of the members of the Alaska Bankers Association, I would like to express our support for enactment of SB 116.

Our members all routinely deal with Money Service Bureaus (MSBs). Our regulators have identified MSBs as potential instrumentalities for money laundering and terrorist financing. At the direction of our regulators we must take special precautions and follow specified procedures when dealing with MSBs. Regulating MSBs in the manner prescribed by SB 116 will assist our members in satisfying regulatory requirements respecting transactions with MSBs imposed on our members.

Furthermore, we believe that the same regulation of MSBs will provide needed consumer protection for our many of our customers who also engage in transactions with MSBs.

If it would be helpful for our members to otherwise express support for SB 116 please let me know.

Sincerely yours,



David A. Lawer, President
Alaska Bankers Association

Senior Vice President & General Counsel
First National Bank Alaska



AKPIRG

A ALASKA LASKA PUBLIC INTEREST RES ALASKA PUBLIC INTEREST RESEARCH
PO Box 101093 ♦ Anchorage, Alaska 99510-1093 ♦ Ph: (907) 278-3661 ♦ Fax: (907) 278-9300 ♦ email: akpirg@akpirg.org

AkPIRG Supports SB 116 – UNIFORM MONEY SERVICES ACT

To: Senate Labor and Commerce Committee

Dear Committee Members:

On behalf of the Alaska Public Interest Research Group (AkPIRG) and our 1,000 Alaskan members, I am writing you to urge your support for Senate Bill 116 – Uniform Money Services Act. This act will protect Alaskan consumers and those in Alaska who use money transfer services.

The bill will require any individual or business that provides money transmission services to have a license. This license allows provision of both money transmission and currency exchange. This will bring Alaska in line with other states who have adopted a uniform standard.

The bill will not only establish a the criteria for operating in Alaska, but will set up security requirements to protect the public from a money transmitter bankruptcy. In addition, a licensed money transmitter will be required to submit an annual report along with their license renewal fee. Thus, the State can keep better track of these businesses, and when necessary investigate and enforce the laws.

Legitimate money transmission businesses in Alaska are in favor of this legislation and want to see it passed so that disreputable ones will not be able to compete. This bill is good for consumers in Alaska and will bring us in line with other states who have adopted these uniform rules.

Thank you for your support of SB 116.

Sincerely,

Steve Cleary
AkPIRG Director