

AK LEGISLATURE FINANCE COMMITTEES FILES 2007-2008 3342 224



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

ALASKA SENATE

STATE CAPITOL • JUNEAU, ALASKA 99801-1182 • (907) 465-1947 • FAX (907) 465-2108
SENATOR KIM ELTON@LEGIS.STATE.AK.US

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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Great Neck, NY 11021
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fax (516) 706-0203
www.nmta.us

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:

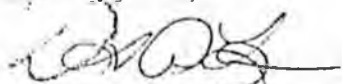
On behalf of the members of the Alaska Bankers Association, I would like to express our support for enactment of SB 116.

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

SB

116

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
 MAY 08 2007
 SENATE FINANCE COMMITTEE

DATE: 4/4/07

FURTHER:

DATE TURNED
 IN TO OFFICE: 8 May 2007

Finance Committee considered SENATE BILL NO. 116

SB 116 UNIFORM MONEY SERVICES ACT

"An Act relating to the Uniform Money Services Act, to money transmission services, and to currency exchange services; and providing for an effective date."

and recommends:

- be replaced with SCS or CS SB 116 (FIN)
- adopt previous SCS or CS _____ (_____)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:
 Same Title
 New Title

HOUSE BILL:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
Commerce	3/26/07	80.0			#1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	Do PASS	Do NOT PASS	NO REC	AMEND
	Elton	✓			
	THOMAS	✓			
	DYSON	✓			
	Huggins	✓			
	OLSON			✓	
CO-CHAIR:	Hoffman	✓			
CO-CHAIR:	Stedman	✓			

FISCAL NOTE

REPORTED OUT
 MAY 08 2007
 SENATE FINANCE COMMITTEE

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 Receipts						
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 Nottli, 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.

ALASKA STATE LEGISLATURE

SENATE FINANCE COMMITTEE

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Fax - (907) 465-4523
Senator_Lyman_Hoffman@legis.state.ak.us

May 9, 2007

To
Miles Baker, Staff to Senator Stedman
Tim Grussendorf, Staff to Senator Lyman Hoffman

From
Mindy Rowland, Senate Finance Committee Secretary

RE: SB 116-UNIFORM MONEY SERVICES ACT

The Committee reported this bill from Committee on May 8, 2007. A final version of a workdraft committee substitute (25-LS0508\N) was requested per the intent of the Committee. That final (Version "T") was delivered to the Senate Secretary. I then received a phone call from Terry Bannister of the Division of Legal and Research Services informing me that the bill they released was incorrect and needed to be replaced. The error was an internal mistake and did not reflect any action of the Committee.

A corrected Senate Finance Committee substitute (Version "W") was received and transmitted to the Senate Secretary. Here is a copy for your records.

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
 MAY 08 2007
 SENATE FINANCE COMMITTEE

DATE: 4/4/07

FURTHER:

 DATE TURNED IN TO OFFICE: 8 May 2007
Finance Committee considered SENATE BILL NO. 116

SB 116 UNIFORM MONEY SERVICES ACT

"An Act relating to the Uniform Money Services Act, to money transmission services, and to currency exchange services; and providing for an effective date."

and recommends:

- be replaced with SCS or CS SB 116 (FIN)
 adopt previous SCS or CS _____
 attached amendment(s)
 adopt _____ Letter of Intent
 further referral to _____ Committee

SENATE BILL:

-
- Same Title
-
-
- New Title

HOUSE BILL:

-
- Same Title
-
-
- Technical Title Change
-
-
- New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
Commerce	3/20/07	80.0			#1

 APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	Elton	✓			
	Thomas	✓			
	Dyson	✓			
	Huggins	✓			
	Olson			✓	
CO-CHAIR:	Hoffman	✓			
CO-CHAIR:	Stedman	✓			

** Replaced w/ \W
for Legal Services internal error*

25-LS0508VF

CS FOR SENATE BILL NO. 116(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): SENATOR ELTON

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Uniform Money Services Act, to money transmission services,
2 and to currency exchange services; and providing for an effective date."

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 * Section 1. AS 06 is amended by adding a new chapter to read:

5 Chapter 55. Alaska Uniform Money Services Act.

6 Article 1. Money Transmission Licenses.

7 Sec. 06.55.101. License required (a) A person may not engage in the
8 business of money transmission or advertise, solicit, or hold the person out as
9 providing money transmission unless the person

10 (1) is licensed under AS 06.55.101 - 06.55.107 or approved to engage
11 in money transmission under AS 06.55.103;

12 (2) is an authorized delegate of a person licensed under AS 06.55.101 -
13 06.55.107; or

14 (3) is an authorized delegate of a person approved to engage in money



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

FAX COVER SHEET

DATE: 8 May 2007 TIME: 9:55 am

TO: Legal Services

NUMBER OF PAGES, INCLUDING COVER SHEET: 1

FROM: MINDY ROWLAND
SENATE FINANCE COMMITTEE SECRETARY
PHONE: 465-4935
FAX: 465-2187

NOTES: Final Please

CS SB 116 (FIN) 25-LS0508 \ N

Bannister 4/26/07

no changes

Thanks

Mindy

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
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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 Receipts						
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.

Adopted
5/8/07

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25-L.S0508\N
Bannister
4/26/07

CS FOR SENATE BILL NO. 116()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR ELTON

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Uniform Money Services Act, to money transmission services,
2 and to currency exchange services; and providing for an effective date."

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 * Section 1. AS 06 is amended by adding a new chapter to read:

5 Chapter 55. Alaska Uniform Money Services Act.

6 Article 1. Money Transmission Licenses.

7 Sec. 06.55.101. License required. (a) A person may not engage in the
8 business of money transmission or advertise, solicit, or hold the person out as
9 providing money transmission unless the person

10 (1) holds a money transmission license; or

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

13 (b) A money transmission license is not transferable or assignable.

14 Sec. 06.55.102. Application for license. (a) A person applying for a money

1 transmission license shall apply in a form and in a medium prescribed by the
2 department. The application must state or contain

3 (1) the legal name and residential and business addresses of the
4 applicant and any fictitious or trade name used by the applicant in conducting the
5 applicant's business;

6 (2) a list of any criminal convictions of the applicant and any material
7 litigation in which the applicant has been involved in the 10-year period next
8 preceding the submission of the application;

9 (3) a description of any money services previously provided by the
10 applicant and the money services that the applicant seeks to provide in this state;

11 (4) a list of the applicant's proposed authorized delegates and the
12 locations in this state where the applicant and its authorized delegates propose to
13 engage in money transmission or provide other money services;

14 (5) a list of other states in which the applicant is licensed to engage in
15 money transmission or provide other money services and any license revocations,
16 suspensions, or other disciplinary action taken against the applicant in another state;

17 (6) information concerning any bankruptcy or receivership
18 proceedings affecting the applicant;

19 (7) a sample form of contract for authorized delegates, if applicable,
20 and a sample form of payment instrument or instrument on which stored value is
21 recorded, if applicable;

22 (8) the name and address of any bank through which the applicant's
23 payment instruments and stored value will be paid;

24 (9) a description of the source of money and credit to be used by the
25 applicant to provide money services; and

26 (10) any other information the department reasonably requires with
27 respect to the applicant.

28 (b) If an applicant is a corporation, a limited liability company, a partnership,
29 or another entity, the applicant shall also provide

30 (1) the date of the applicant's incorporation or formation and state or
31 country of incorporation or formation;

1 (2) if applicable, a certificate of good standing from the state or
2 country in which the applicant is incorporated or formed;

3 (3) a brief description of the structure or organization of the applicant,
4 including any parent or subsidiary of the applicant, and whether any parent or
5 subsidiary is publicly traded;

6 (4) the legal name, any fictitious or trade name, all business and
7 residential addresses, and the employment, in the 10-year period next preceding the
8 submission of the application of each executive officer, manager, director, or person
9 who has control of the applicant;

10 (5) a list of any criminal convictions and material litigation in which
11 any executive officer, manager, director, or person in control of the applicant has been
12 involved in the 10-year period next preceding the submission of the application;

13 (6) a copy of the applicant's audited financial statements for the most
14 recent fiscal year and, if available, for the two-year period next preceding the
15 submission of the application;

16 (7) a copy of the applicant's unconsolidated financial statements for the
17 current fiscal year, whether audited or not, and, if available, for the two-year period
18 next preceding the submission of the application;

19 (8) if the applicant is publicly traded, a copy of the most recent report
20 filed with the United States Securities and Exchange Commission under 15 U.S.C.
21 78m (Securities Exchange Act of 1934);

22 (9) if the applicant is a wholly owned subsidiary of

23 (A) a corporation publicly traded in the United States, a copy of
24 audited financial statements for the parent corporation for the most recent
25 fiscal year or a copy of the parent corporation's most recent report filed under
26 15 U.S.C. 78m (Securities Exchange Act of 1934); or

27 (B) a corporation publicly traded outside the United States, a
28 copy of documentation that is similar to the documentation required by (A) of
29 this paragraph and that is filed with the regulator of the parent corporation's
30 domicile outside the United States;

31 (10) if the applicant has a registered agent in this state, the name and

1 address of the applicant's registered agent in this state; and

2 (11) any other information the department reasonably requires with
3 respect to the applicant.

4 (c) A nonrefundable application fee and a license fee must accompany an
5 application for a money transmission license. The license fee shall be refunded if the
6 application is denied.

7 (d) The department may waive a requirement of (a) and (b) of this section or
8 permit an applicant to submit other information instead of the required information.

9 (e) In this section,

10 (1) "material litigation" means litigation that, according to generally
11 accepted accounting principles, is significant to an applicant's or a money transmission
12 licensee's financial health and would be required to be disclosed in the applicant's or
13 money transmission licensee's annual audited financial statements, report to
14 shareholders, or similar records;

15 (2) "money transmission license" does not include an approval under
16 AS 06.55.103.

17 **Sec. 06.55.103. Approval to engage in money transmission when licensed**
18 **in another state.** (a) A person who is licensed to engage in money transmission in at
19 least one other state, with the approval of the department and under this section, may
20 engage in money transmission, currency exchange, or both money transmission and
21 currency exchange in this state without being licensed under AS 06.55.102 if

22 (1) the state in which the person is licensed has enacted the Uniform
23 Money Services Act or the department determines that the money transmission laws of
24 the state in which the person is licensed are substantially similar to those imposed by
25 this chapter,

26 (2) the person submits to, and in the form required by, the department

27 (A) in a record, an application for approval to engage in money
28 transmission, currency exchange, or both money transmission and currency
29 exchange in this state without being licensed under AS 06.55.102;

30 (B) a nonrefundable application fee;

31 (C) a fee for the first year of operating with the approval given

1 under this section; this fee shall be refunded if the application is denied; and

2 (D) a certification of license history in the other state.

3 (b) Before granting a person approval under this section to engage in money
4 transmission, currency exchange, or both money transmission and currency exchange
5 in this state, the department shall make findings and conclusions as required by
6 regulation.

7 (c) When an application for approval under this section is complete, the
8 department shall promptly notify the applicant, in a record, of the date on which the
9 request was determined to be complete, and

10 (1) the department shall approve or deny the request within 120 days
11 after that date; or

12 (2) if the request is not approved or denied within 120 days after that
13 date,

14 (A) the request is approved; and

15 (B) the approval takes effect as of the first business day after
16 expiration of the 120-day period.

17 (d) An applicant whose application under this section is denied by the
18 department may appeal, within 30 days after receipt of the notice of the denial, and
19 request a hearing.

20 **Sec. 06.55.104. Security.** (a) Except as otherwise provided in (b) of this
21 section, a surety bond, a letter of credit, or another similar security acceptable to the
22 department in the amount of \$25,000 plus \$5,000 for each location, not exceeding a
23 total addition of \$125,000, must accompany an application for a money transmission
24 license.

25 (b) Security must be in a form satisfactory to the department and payable to
26 the state for the benefit of a claimant against the money transmission licensee to
27 secure the faithful performance of the obligations of the money transmission licensee
28 with respect to money transmission.

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

1 (d) A surety bond must cover claims for as long as the department specifies,
2 but for at least five years after the money transmission licensee ceases to provide
3 money services in this state. However, the department may permit the amount of
4 security to be reduced or eliminated before the expiration of that time to the extent the
5 amount of the money transmission licensee's payment instruments or stored-value
6 obligations outstanding in this state is reduced. The department may permit a money
7 transmission licensee to substitute another form of security acceptable to the
8 department for the security effective at the time the money transmission licensee
9 ceases to provide money services in this state.

10 (e) Instead of the security prescribed in this section, an applicant for a money
11 transmission license or a money transmission licensee may provide security in a form
12 prescribed by the department.

13 (f) The department may increase the amount of security required to a
14 maximum of \$500,000 if the financial condition of a money transmission licensee
15 requires the increase, as evidenced by reduction of net worth, financial losses, or other
16 relevant criteria.

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

24 (1) the applicant has complied with AS 06.55.102, 06.55.104, and
25 06.55.107; and

26 (2) the financial condition and responsibility, financial and business
27 experience, character, and general fitness of the applicant, and the competence,
28 experience, character, and general fitness of the executive officers, managers,
29 directors, and persons in control of the applicant indicate that it is in the interest of the
30 public to permit the applicant to engage in money transmission;

31 (b) When an application for an original money transmission license under

1 AS 06.55.102 is complete, the department shall promptly notify the applicant in a
2 record of the date on which the application was determined to be complete, and

3 (1) the department shall approve or deny the application within 120
4 days after that date; or

5 (2) if the application is not approved or denied within 120 days after
6 that date.

7 (A) the application is approved; and

8 (B) the money transmission license takes effect as of the first
9 business day after expiration of the 120-day period.

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

11 (d) An applicant whose application under AS 06.55.102 is denied by the
12 department under AS 06.55.101 - 06.55.107 may appeal, within 30 days after receipt
13 of the notice of the denial, and request a hearing.

14 (e) In this section, "money transmission license" does not include an approval
15 under AS 06.55.103.

16 **Sec. 06.55.106. Renewal of license.** (a) A money transmission licensee shall
17 pay an annual renewal fee not later than 30 days before the anniversary of the issuance
18 of the money transmission license or, if the last day is not a business day, on the next
19 business day.

20 (b) A money transmission licensee shall submit a renewal report with the
21 renewal fee, in a form and in a medium prescribed by the department. The renewal
22 report must state or contain

23 (1) a copy of the money transmission licensee's most recent audited
24 annual financial statement or, if the money transmission licensee is a wholly owned
25 subsidiary of another corporation, the most recent audited consolidated annual
26 financial statement of the parent corporation or the money transmission licensee's
27 most recent audited consolidated annual financial statement;

28 (2) the number and monetary amount of payment instruments and
29 stored value sold by the money transmission licensee in this state that have not been
30 included in a renewal report, and the monetary amount of payment instruments and
31 stored value currently outstanding;

1 (3) a description of each material change in information submitted by
2 the money transmission licensee in its original license application that has not been
3 reported to the department on any required report;

4 (4) a list of the money transmission licensee's permissible investments
5 and a certification that the money transmission licensee continues to maintain
6 permissible investments according to the requirements set out in AS 06.55.501 and
7 06.55.502;

8 (5) proof that the money transmission licensee continues to maintain
9 adequate security as required by AS 06.55.104; and

10 (6) a list of the locations in this state where the money transmission
11 licensee or an authorized delegate of the money transmission licensee engages in
12 money transmission or provides other money services.

13 (c) If a money transmission licensee does not file a renewal report or pay its
14 renewal fee by the renewal date or any extension of time granted by the department,
15 the department shall send the money transmission licensee a notice of suspension.
16 Unless the money transmission licensee files the report and pays the renewal fee
17 before expiration of 10 days after the notice is sent, the money transmission licensee's
18 license is suspended 10 days after the department sends the notice of suspension. The
19 suspension shall be lifted if, within 20 days after its money transmission license is
20 suspended, the money transmission licensee

21 (1) files the report and pays the renewal fee; and

22 (2) pays a late fee for each day after suspension that the department did
23 not receive the renewal report and the renewal fee.

24 (d) The department for good cause may grant an extension of the renewal date.

25 **Sec. 06.55.107. Net worth.** A money transmission licensee shall maintain a net
26 worth of at least \$25,000 determined under generally accepted accounting principles.

27 **Article 2. Currency Exchange Licenses.**

28 **Sec. 06.55.201. License required.** (a) A person may not engage in currency
29 exchange or advertise, solicit, or hold the person out as providing currency exchange
30 for which the person receives revenues equal or greater than five percent of total
31 revenues unless the person

- 1 (1) holds a currency exchange license;
2 (2) holds a money transmission license; or
3 (3) is an authorized delegate of a person who holds a money
4 transmission license.

5 (b) A currency exchange license is not transferable or assignable.

6 **Sec. 06.55.202. Application for license.** (a) A person applying for a currency
7 exchange license under AS 06.55.201 - 06.55.204 shall apply in a form and in a
8 medium prescribed by the department. The application must state or contain

9 (1) the legal name and residential and business addresses of the
10 applicant if the applicant is an individual or, if the applicant is not an individual, the
11 name of each partner, executive officer, manager, and director;

12 (2) the location of the principal office of the applicant;

13 (3) the complete addresses of other locations in this state where the
14 applicant proposes to engage in currency exchange, including all mobile locations;

15 (4) a description of the source of money and credit to be used by the
16 applicant to engage in currency exchange; and

17 (5) other information the department reasonably requires with respect
18 to the applicant, but not more than the department may require under AS 06.55.101 -
19 06.55.107.

20 (b) A nonrefundable application fee and a currency exchange license fee must
21 accompany an application for a currency exchange license. The currency exchange
22 license fee shall be refunded if the application is denied.

23 **Sec. 06.55.203. Issuance of license.** (a) When an application for a currency
24 exchange license is filed under AS 06.55.201 - 06.55.204, the department shall
25 investigate the applicant's financial condition and responsibility, financial and business
26 experience, character, and general fitness. The department may conduct an on-site
27 investigation of the applicant, the reasonable cost of which the applicant shall pay. The
28 department shall issue a currency exchange license to an applicant under AS 06.55.201
29 - 06.55.204 if the department finds that all of the following conditions have been
30 fulfilled:

31 (1) the applicant has complied with AS 06.55.202; and

1 (2) the financial condition and responsibility, financial and business
2 experience, character, and general fitness of the applicant, and the competence,
3 experience, character, and general fitness of the executive officers, managers,
4 directors, and persons in control of the applicant indicate that it is in the interest of the
5 public to permit the applicant to engage in currency exchange.

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

10 (1) the department shall approve or deny the application within 120
11 days after that date; or

12 (2) if the application is not approved or denied within 120 days after
13 that date,

14 (A) the application is approved; and

15 (B) the department shall issue the currency exchange license
16 under AS 06.55.201 - 06.55.204 to take effect as of the first business day after
17 expiration of the period.

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

19 (d) An applicant whose application is denied by the department under
20 AS 06.55.201 - 06.55.204 may appeal, within 30 days after receipt of the notice of the
21 denial, from the denial and request a hearing.

22 **Sec. 06.55.204. Renewal of license.** (a) A currency exchange licensee shall
23 pay a biennial renewal fee not later than 30 days before each biennial anniversary of
24 the issuance of the currency exchange license or, if the last day is not a business day,
25 on the next business day.

26 (b) A currency exchange licensee under AS 06.55.201 - 06.55.204 shall submit
27 a renewal report with the renewal fee, in a form and in a medium prescribed by the
28 department. The renewal report must state or contain

29 (1) a description of each material change in information submitted by
30 the currency exchange licensee in its original currency exchange license application
31 that has not been reported to the department on any required report; and

1 (2) a list of the locations in this state where the currency exchange
2 licensee or an authorized delegate of the currency exchange licensee engages in
3 currency exchange, including mobile locations.

4 (c) If a currency exchange licensee does not file a renewal report and pay its
5 renewal fee by the renewal date or any extension of time granted by the department,
6 the department shall send the currency exchange licensee a notice of suspension.
7 Unless the currency exchange licensee files the report and pays the renewal fee before
8 expiration of 10 days after the notice is sent, the currency exchange license is
9 suspended 10 days after the department sends the notice of suspension.

10 (d) The department for good cause may grant an extension of the renewal date.

11 Article 3. Authorized Delegates.

12 Sec. 06.55.301. Relationship between licensee and authorized delegate. (a)

13 A contract between a money services licensee and an authorized delegate must require
14 the authorized delegate to operate in full compliance with this chapter. The money
15 services licensee shall furnish in a record to each authorized delegate policies and
16 procedures sufficient for compliance with this chapter.

17 (b) An authorized delegate shall remit all money owing to the money services
18 licensee under the terms of the contract between the money services licensee and the
19 authorized delegate. In this subsection, "remit" means to make direct payments of
20 money to a money services licensee or its representative authorized to receive money
21 or to deposit money in a bank in an account specified by the money services licensee.

22 (c) If a money services license is suspended or revoked or a money services
23 licensee does not renew its money services license, the department shall notify all
24 authorized delegates of the money services licensee whose names are in a record filed
25 with the department of the suspension, revocation, or nonrenewal. After notice is sent
26 or publication is made, an authorized delegate shall immediately cease to provide
27 money services as an authorized delegate of the money services licensee.

28 (d) An authorized delegate may not provide money services outside the scope
29 of activity permissible under the contract between the authorized delegate and the
30 money services licensee, except activity in which the authorized delegate is authorized
31 to engage under AS 06.55.101 - 06.55.204. An authorized delegate of a money

1 services licensee holds in trust for the benefit of the money services licensee all money
2 net of fees received from money transmission.

3 (c) An authorized delegate may not use a subdelegate to conduct money
4 services on behalf of a money services licensee.

5 **Sec. 06.55.302. Unauthorized activities.** A person may not act as an
6 authorized delegate for, or otherwise provide money services on behalf of, a person
7 who does not hold a money services license under this chapter.

8 **Article 4. Examinations, Reports, Records.**

9 **Sec. 06.55.401. Authority to conduct examinations.** (a) The department may
10 conduct an annual examination of a money services licensee or of any of its authorized
11 delegates upon 45 days' notice in a record to the money services licensee.

12 (b) The department may examine a money services licensee or its authorized
13 delegate, at any time, without notice, if the department has reason to believe that the
14 money services licensee or authorized delegate is engaging in an unsafe or unsound
15 practice or has violated or is violating this chapter or a regulation adopted or an order
16 issued under this chapter.

17 (c) If the department concludes that an on-site examination is necessary under
18 (a) of this section, the money services licensee shall pay the reasonable cost of the
19 examination.

20 (d) Information obtained during an examination under this chapter may be
21 disclosed only as provided in AS 06.55.407.

22 **Sec. 06.55.402. Cooperation.** The department may consult and cooperate with
23 other state money services regulators in enforcing and administering this chapter. The
24 department and other state money service regulators may jointly pursue examinations
25 and take other official action that they are otherwise empowered to take.

26 **Sec. 06.55.403. Reports.** (a) A money services licensee shall file with the
27 department within 15 business days any material changes in information provided in a
28 money services licensee's application as prescribed by the department.

29 (b) A money services licensee shall file with the department within 45 days
30 after the end of each fiscal quarter a current list of all authorized delegates and
31 locations in this state where the money services licensee or an authorized delegate of

1 the money services licensee provides money services, including mobile locations. The
2 money services licensee shall state the name and street address of each location and
3 authorized delegate.

4 (c) A money services licensee shall file a report with the department within
5 one business day after the money services licensee has reason to know of the
6 occurrence of any of the following events:

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

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

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

16 (4) the cancellation or other impairment of the money services
17 licensee's bond or other security;

18 (5) a charge against or conviction of the money services licensee or of
19 an executive officer, manager, director, or person in control of the money services
20 licensee for a felony; or

21 (6) a charge against or conviction of an authorized delegate for a
22 felony.

23 **Sec. 06.55.404. Change of control.** (a) A money services licensee shall

24 (1) give the department notice in a record of a proposed change of
25 control within 15 days after learning of the proposed change of control;

26 (2) request approval of the acquisition; and

27 (3) submit a nonrefundable fee with the notice.

28 (b) After review of a request for approval under (a) of this section, the
29 department may require the money services licensee to provide additional information
30 concerning the proposed persons in control of the money services licensee. The
31 additional information must be limited to the same types required of the money

1 services licensee or persons in control of the money services licensee as part of its
2 original money services license or renewal application.

3 (c) The department shall approve a request for change of control under (a) of
4 this section if, after investigation, the department determines that the person or group
5 of persons requesting approval has the competence, experience, character, and general
6 fitness to operate the money services licensee or person in control of the money
7 services licensee in a lawful and proper manner and that the public interest will not be
8 jeopardized by the change of control.

9 (d) When an application for a change of control under AS 06.55.401 -
10 06.55.407 is complete, the department shall notify the money services licensee in a
11 record of the date on which the request was determined to be complete, and

12 (1) the department shall approve or deny the request within 120 days
13 after that date; or

14 (2) if the request is not approved or denied within 120 days after that
15 date,

16 (A) the request is approved; and

17 (B) the department shall permit the change of control under this
18 section, to take effect as of the first business day after expiration of the period.

19 (e) The department, by regulation or order, may exempt a person from any of
20 the requirements of (a)(2) and (3) of this section if it is in the public interest to exempt
21 the person.

22 (f) The provisions of (a) of this section do not apply to a public offering of
23 securities.

24 (g) Before filing a request for approval to acquire control of a money services
25 licensee or person in control of a money services licensee, a person may request in a
26 record a determination from the department as to whether the person would be
27 considered a person in control of a money services licensee upon consummation of a
28 proposed transaction. If the department determines that the person would not be a
29 person in control of a money services licensee, the department shall enter an order to
30 that effect, and the proposed person and transaction are not subject to the requirements
31 of (a) - (e) of this section.

1 **Sec. 06.55.405. Records.** (a) A money services licensee shall maintain the
2 following records for determining its compliance with this chapter for at least three
3 years:

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

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

8 (3) bank statements and bank reconciliation records;

9 (4) records of outstanding payment instruments and stored-value
10 obligations;

11 (5) records of each payment instrument and stored-value obligation
12 paid within the three-year period;

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

15 (7) any other records the department reasonably requires by regulation.

16 (b) The items specified in (a) of this section may be maintained in any form of
17 record.

18 (c) Records may be maintained outside this state if they are made accessible to
19 the department on seven business days' notice that is sent in a record.

20 (d) All records maintained by the money services licensee as required in (a) -
21 (c) of this section are open to inspection by the department under AS 06.55.401.

22 **Sec. 06.55.406. Money laundering reports.** (a) A money services licensee and
23 an authorized delegate shall file with the attorney general all reports required by
24 federal currency reporting, record keeping, and suspicious transaction reporting
25 requirements as set out in 31 U.S.C. 5311, 31 C.F.R. 103, and other federal and state
26 laws pertaining to money laundering.

27 (b) The timely filing of a complete and accurate report required under (a) of
28 this section with the appropriate federal agency is compliance with the requirements of
29 (a) of this section, unless the department notifies the money services licensee that the
30 attorney general has notified the department that reports of this type are not being
31 regularly and comprehensively transmitted by the federal agency to the attorney

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general.

Sec. 06.55.407. Confidentiality. (a) Except as otherwise provided in (b) of this section, all information or reports obtained by the department from an applicant, a licensee, or an authorized delegate are confidential and not subject to disclosure under AS 40.25.100 - 40.25.220, including

(1) all information contained in or related to examination, investigation, operating, or condition reports prepared by, on behalf of, or for the use of the department; and

(2) financial statements, balance sheets, and authorized delegate information.

(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 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.

(c) This section does not prohibit the department from disclosing to the public a list of money services licensees or the aggregated financial data concerning those money services licensees.

Article 5. Permissible Investments.

Sec. 06.55.501. Maintenance of permissible investments. (a) A money services licensee shall maintain at all times permissible investments that have a market value computed under generally accepted accounting principles of not less than the aggregate amount of all of its outstanding payment instruments and stored value obligations issued or sold in all states and money transmitted from all states by the money services licensee.

(b) The department, with respect to any money services licensees, may limit the extent to which a type of investment within a class of permissible investments may be considered a permissible investment, except for money and certificates of deposit issued by a bank. The department by regulation may prescribe or by order allow other types of investments that the department determines to have a safety substantially

1 equivalent to other permissible investments.

2 (c) Permissible investments, even if commingled with other assets of the
3 money services licensee, are held in trust for the benefit of the purchasers and holders
4 of the money services licensee's outstanding payment instruments and stored value
5 obligations in the event of bankruptcy or receivership of the money services licensee.

6 **Sec. 06.55.502. Types of permissible investments.** (a) Except to the extent
7 otherwise limited by the department under AS 06.55.501, the following investments
8 are permissible under AS 06.55.501:

9 (1) cash, a certificate of deposit, or a senior debt obligation of an
10 insured depository institution; in this paragraph, "insured depository institution" has
11 the meaning given in 12 U.S.C. 1813 (Federal Deposit Insurance Act);

12 (2) banker's acceptance or bill of exchange that is eligible for purchase
13 on endorsement by a member bank of the Federal Reserve System and is eligible for
14 purchase by a Federal Reserve Bank;

15 (3) an investment bearing a rating of one of the three highest grades as
16 defined by a nationally recognized organization that rates securities;

17 (4) an investment security that is an obligation of the United States or a
18 department, agency, or instrumentality of the United States, an investment in an
19 obligation that is guaranteed fully as to principal and interest by the United States, or
20 an investment in an obligation of a state or a governmental subdivision, agency, or
21 instrumentality of a state;

22 (5) receivables that are payable to a money services licensee from its
23 authorized delegates, in the ordinary course of business, under contracts that are not
24 past due or doubtful of collection if the aggregate amount of receivables under this
25 paragraph does not exceed 20 percent of the total permissible investments of a money
26 services licensee and the money services licensee does not hold at one time
27 receivables under this paragraph in any one person aggregating more than 10 percent
28 of the money services licensee's total permissible investments; and

29 (6) a share or a certificate issued by an open-end management
30 investment company that is registered with the United States Securities and Exchange
31 Commission under 15 U.S.C. 80a-1 - 80a-64 (Investment Company Act of 1940), and

1 whose portfolio is restricted by the management company's investment policy to
2 investments specified in (1) - (4) of this subsection.

3 (b) The following investments are permissible under AS 06.55.501, but only
4 to the extent specified:

5 (1) an interest-bearing bill, note, bond, or debenture of a person whose
6 equity shares are traded on a national securities exchange or on a national over-the-
7 counter market, if the aggregate of investments under this paragraph does not exceed
8 20 percent of the total permissible investments of a money services licensee and the
9 money services licensee does not at one time hold investments under this paragraph in
10 any one person aggregating more than 10 percent of the money services licensee's
11 total permissible investments;

12 (2) a share of a person traded on a national securities exchange or a
13 national over-the-counter market or a share or a certificate issued by an open-end
14 management investment company that is registered with the United States Securities
15 and Exchange Commission under 15 U.S.C. 80a-1 - 80a-64 (Investment Company Act
16 of 1940), and whose portfolio is restricted by the management company's investment
17 policy to shares of a person traded on a national securities exchange or a national over-
18 the-counter market, if the aggregate of investments under this paragraph does not
19 exceed 20 percent of the total permissible investments of a money services licensee
20 and the money services licensee does not at one time hold investments in any one
21 person aggregating more than 10 percent of the money services licensee's total
22 permissible investments;

23 (3) a demand-borrowing agreement made to a corporation or a
24 subsidiary of a corporation whose securities are traded on a national securities
25 exchange, if the aggregate of the amount of principal and interest outstanding under
26 demand-borrowing agreements under this paragraph does not exceed 20 percent of the
27 total permissible investments of a money services licensee and the money services
28 licensee does not at one time hold principal and interest outstanding under demand-
29 borrowing agreements under this paragraph with any one person aggregating more
30 than 10 percent of the money services licensee's total permissible investments; and

31 (4) any other investment the department designates, to the extent

1 specified by the department.

2 (c) The aggregate of investments under (b) of this section may not exceed 50
3 percent of the total permissible investments of a money services licensee calculated
4 under AS 06.55.501.

5 **Article 6. Enforcement.**

6 **Sec. 06.55.601. Suspension and revocation; receivership.** (a) The
7 department may suspend or revoke a money services license, place a money services
8 licensee in receivership, or order a money services licensee to revoke the designation
9 of an authorized delegate if

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

12 (2) the money services licensee does not cooperate with an
13 examination or investigation by the department;

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

16 (4) an authorized delegate is convicted of a violation of a state or
17 federal anti-money laundering statute, or violates a regulation adopted or an order
18 issued under this chapter, as a result of the money services licensee's wilful
19 misconduct or wilful blindness;

20 (5) the competence, experience, character, or general fitness of the
21 money services licensee, authorized delegate, person in control of a money services
22 licensee, or responsible person of the money services licensee or authorized delegate
23 indicates that it is not in the public interest to permit the person to provide money
24 services;

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

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

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

1 (b) In determining whether a money services licensee is engaging in an unsafe
2 or unsound practice, the department may consider the size and condition of the money
3 services licensee's money transmission, the magnitude of the loss, the gravity of the
4 violation of this chapter, and the previous conduct of the person involved.

5 **Sec. 06.55.602. Suspension and revocation of authorized delegates.** (a) The
6 department may issue an order suspending or revoking the designation of an
7 authorized delegate if the department finds that

8 (1) the authorized delegate violated this chapter or a regulation adopted
9 or an order issued under this chapter;

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

12 (3) the authorized delegate engaged in fraud, intentional
13 misrepresentation, or gross negligence;

14 (4) the authorized delegate is convicted of a violation of a state or
15 federal anti-money laundering statute;

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

20 (6) the authorized delegate is engaging in an unsafe or unsound
21 practice.

22 (b) In determining whether an authorized delegate is engaging in an unsafe or
23 unsound practice, the department may consider the size and condition of the
24 authorized delegate's provision of money services, the magnitude of the loss, the
25 gravity of the violation of this chapter or a regulation adopted or order issued under
26 this chapter, and the previous conduct of the authorized delegate.

27 **Sec. 06.55.603. Orders to cease and desist.** (a) If the department determines
28 that a violation of this chapter or of a regulation adopted or an order issued under this
29 chapter by a money services licensee or authorized delegate is likely to cause
30 immediate and irreparable harm to the money services licensee, its customers, or the
31 public as a result of the violation, or cause insolvency or significant dissipation of

1 assets of the money services licensee, the department may issue an order requiring the
2 money services licensee or authorized delegate to cease and desist from the violation.
3 The order becomes effective on service of it on the money services licensee or
4 authorized delegate.

5 (b) The department may issue an order against a money services licensee to
6 cease and desist from providing money services through an authorized delegate who is
7 the subject of a separate order by the department.

8 (c) An order to cease and desist remains effective and enforceable pending the
9 completion of an administrative proceeding under AS 06.55.601 or 06.55.602.

10 (d) A money services licensee or an authorized delegate who is served with an
11 order to cease and desist may petition the superior court for a judicial order setting
12 aside, limiting, or suspending the enforcement, operation, or effectiveness of the order
13 pending the completion of an administrative proceeding under AS 06.55.601 or
14 06.55.602.

15 (e) An order to cease and desist expires unless the department commences an
16 administrative proceeding under AS 06.55.601 or 06.55.602 within 10 days after it is
17 issued.

18 **Sec. 06.55.604. Consent orders.** The department may enter into a consent
19 order at any time with a person to resolve a matter arising under this chapter or a
20 regulation adopted or order issued under this chapter. A consent order shall be signed
21 by the person to whom it is issued or by the person's authorized representative and
22 must indicate agreement with the terms contained in the order. A consent order may
23 provide that it does not constitute an admission by a person that this chapter or a
24 regulation adopted or an order issued under this chapter has been violated.

25 **Sec. 06.55.605. Civil penalties.** The department may assess a civil penalty
26 against a person who violates this chapter or a regulation adopted or an order issued
27 under this chapter in an amount not to exceed \$1,000 each day for each day the
28 violation is outstanding.

29 **Sec. 06.55.606. Criminal penalties.** (a) A person who intentionally makes a
30 false statement, misrepresentation, or false certification in a record filed or required to
31 be maintained under this chapter or who intentionally makes a false entry or omits a

1 material entry in a record filed or required to be maintained under this chapter is guilty
2 of a class C felony.

3 (b) A person who knowingly engages in an activity for which a money
4 services license is required under this chapter without being licensed as a money
5 services licensee and who receives more than \$500 in compensation within a 30-day
6 period from this activity is guilty of a class C felony.

7 (c) A person who knowingly engages in an activity for which a money
8 services license is required under this chapter without being licensed as a money
9 services licensee and who receives no more than \$500 in compensation within a 30-
10 day period from this activity is guilty of a class A misdemeanor.

11 **Sec. 06.55.607. Unlicensed persons.** (a) If the department has reason to
12 believe that a person has violated or is violating AS 06.55.101 or 06.55.201, the
13 department may issue an order to show cause why an order to cease and desist should
14 not issue requiring that the person cease and desist from the violation of AS 06.55.101
15 or 06.55.201.

16 (b) In an emergency, the department may petition the superior court for the
17 issuance of a temporary restraining order.

18 (c) An order to cease and desist becomes effective upon service of it upon the
19 person.

20 (d) An order to cease and desist remains effective and enforceable pending the
21 completion of an administrative proceeding under AS 06.55.701 and 06.55.702.

22 (e) A person who is served with an order to cease and desist for violating
23 AS 06.55.101 or 06.55.201 may petition the superior court for a judicial order setting
24 aside, limiting, or suspending the enforcement, operation, or effectiveness of the order
25 pending the completion of an administrative proceeding under AS 06.55.701 and
26 06.55.702.

27 (f) An order to cease and desist expires unless the department commences an
28 administrative proceeding within 10 days after it is issued.

29 **Article 7. Administrative Procedures.**

30 **Sec. 06.55.701. Administrative proceedings.** All administrative proceedings
31 under this chapter shall be conducted under AS 44.62 (Administrative Procedure Act).

1 except that hearings shall be conducted by the office of administrative hearings
2 (AS 44.64.010).

3 **Sec. 06.55.702. Hearings.** (a) Except as otherwise provided in AS 06.55.603
4 and 06.55.607 and in (b) of this section, the department may not suspend or revoke a
5 money services license, place a money services licensee in receivership, issue an order
6 to cease and desist, suspend or revoke the designation of an authorized delegate, or
7 assess a civil penalty without notice and an opportunity to be heard. The department
8 shall also hold a hearing when requested to hold a hearing by an applicant whose
9 application for a money services license is denied.

10 (b) Under AS 06.55.106(c) and 06.55.204(c), the department may suspend a
11 money services license without a hearing unless the money services licensee requests
12 a hearing.

13 **Sec. 06.55.703. Investigative powers.** (a) In its investigations under this
14 chapter, the department may administer oaths or affirmations and, on its own motion
15 or on the request of a party to a proceeding, may subpoena witnesses, compel the
16 attendance of witnesses, take evidence, and require the production of material that is
17 relevant to the investigation, including the existence, description, nature, custody,
18 condition, and location of books, documents, and other tangible items, and the identity
19 and location of persons having knowledge of relevant facts or other material
20 reasonably calculated to lead to the discovery of admissible evidence.

21 (c) If a person fails without a lawful excuse to obey a subpoena, and after
22 reasonable notice to all persons affected by the failure, the department may apply to
23 the superior court for an order compelling the person to obey the subpoena.

24 **Article 8. Miscellaneous Provisions.**

25 **Sec. 06.55.801. Uniformity of application and construction.** In applying and
26 construing this chapter, consideration shall be given to the need to promote uniformity
27 of the law with respect to its subject matter among states that enact it.

28 **Sec. 06.55.802. Exclusions.** This chapter does not apply to

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

31 (2) money transmission by the United States Postal Service or by a

1 contractor on behalf of the United States Postal Service;

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

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

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

15 (A) the United States or a department, an agency, or an
16 instrumentality of the United States; or

17 (B) a state, or a department, an agency, or an instrumentality of
18 a state;

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

24 (7) a registered futures commission merchant under the federal
25 commodities laws, to the extent of the merchant's operation as a registered futures
26 commission merchant under the federal commodities laws;

27 (8) a person who provides clearance or settlement services under a
28 registration as a clearing agency or an exemption from the registration granted under
29 the federal securities laws, to the extent of the person's operation as a provider of
30 clearance or settlement services under a registration as a clearing agency or an
31 exemption from the registration granted under the federal securities laws;

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

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

Sec. 06.55.810. Notices required. (a) A money services licensee shall display a sign at each location where the money services licensee

(1) provides money services under this chapter; and

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

(b) An authorized delegate shall display a sign at each location where the authorized delegate provides money services under this chapter.

(c) The sign required by (a) or (b) of this section shall be displayed at all times in full view of persons visiting the location and shall give the department's address and the department's telephone number for receiving calls regarding complaints and other concerns about money services licensees, authorized delegates, and the money services provided by money services licensees and authorized delegates.

Sec. 06.55.820. Transmission. Within 10 business days after receiving the money or equivalent value for money transmission, unless otherwise ordered by the customer or unless the money transmission licensee has reason to believe a crime has occurred, is occurring, or may occur as a result of the money transmission, a money transmission licensee shall

(1) transmit after the deduction of fees the monetary equivalent of all money or equivalent value received for the money transmission; or

(2) issue instructions making the money or its monetary equivalent available to the person designated by the customer.

Sec. 06.55.830. Receipt. (a) A money transmission licensee who receives money or equivalent value for a money transmission shall provide a receipt to the

1 customer that clearly states the amount of the money or the equivalent value presented
2 by the customer for the money transmission and the total fees charged by the money
3 transmission licensee.

4 (b) If a money transmission licensee fixes, when the money transmission is
5 initiated, the rate of exchange for a money transmission to be paid in the currency of
6 another government, the receipt provided by (a) of this section must disclose the rate
7 of exchange for the transaction and any limit on the length of time that the payment
8 will be made at that fixed rate of exchange.

9 (c) If a money transmission licensee does not fix the rate of exchange for a
10 money transmission to be paid in the currency of another government, the receipt
11 provided under (a) of this section must disclose that the rate of exchange for the
12 money transmission will be set when the person designated by the customer to receive
13 the money takes possession of the money.

14 **Sec. 06.55.840. Refunds.** Within 10 days after receiving a written request for a
15 refund, a money transmission licensee shall refund to a customer money equal to the
16 money or equivalent value received from the customer for a money transmission,
17 unless

18 (1) before receiving the written request

19 (A) the money has been transmitted to the person designated by
20 the customer to receive the money transmission and the person has taken
21 possession of the money; in this section, "transmitted" means made available
22 to the person designated by the customer to receive the money, whether or not
23 the person designated by the customer has taken possession of the money; or

24 (B) instructions have been given making a monetary equivalent
25 available to the person designated by the customer to receive the money
26 transmission;

27 (2) the money transmission licensee has reason to believe that a crime
28 has occurred, is occurring, or may occur as a result of transmitting or refunding the
29 money as requested by the customer; or

30 (3) the money transmission licensee is otherwise prohibited by law
31 from making a refund.

1 **Sec. 06.55.850. Establishment of fees and other charges.** (a) The department
2 shall adopt regulations that establish the amount and manner of payment of fees
3 required under this chapter.

4 (b) The department shall establish fee levels under (a) of this section so that
5 the total amount of fees collected for both money transmission licenses and currency
6 exchange licenses under this chapter approximately equals the department's actual
7 total regulatory costs for both money transmission licenses and currency exchange
8 licenses. The department shall set the fee levels so that the fee levels for both money
9 transmission licenses and currency exchange licenses are the same.

10 (c) The department shall annually review each fee level to determine whether
11 the regulatory costs are approximately equal to fee collections. If the review indicates
12 that fee collections and regulatory costs are not approximately equal, the department
13 shall calculate fee adjustments and adopt regulations under (a) of this section to
14 implement the adjustments.

15 (d) In January of each year, the department shall report to the office of
16 management and budget all fee levels and revisions made for the previous year under
17 this section.

18 (e) In this section,

19 (1) "fee" means an application fee, a money services license fee, a
20 first-year operation fee under AS 06.55.103(a)(2)(C), a renewal fee, the daily late fee
21 for not submitting a renewal report and paying the renewal fee under AS 06.55.106,
22 investigation costs under AS 06.55.105 and 06.55.203, an examination cost under
23 AS 06.55.401, and a fee for approving a change of control under AS 06.55.404;

24 (2) "regulatory costs" means the costs of the department that are
25 attributable to regulation of money services licensing under this chapter.

26 **Sec. 06.55.890. Definitions.** In AS 06.55.820 - 06.55.840.

27 (1) "fees" does not include revenue that a money services licensee
28 generates from a money transmission when converting the currency of one
29 government into the currency of another government;

30 (2) "monetary equivalent" means, for money transmissions that will be
31 redeemed in a currency other than the currency that the customer uses to purchase the

1 money transmission, the amount of money in the currency of the government that the
2 recipient of the money transmission is to receive, as converted at the retail exchange
3 rate offered by the money transmission licensee to the customer for the money
4 transmission.

5 (2) "money transmission licensee" means a person who holds a money
6 services license and a person who is an authorized delegate.

7 **Article 9. General Provisions.**

8 **Sec. 06.55.990. Definitions.** In this chapter, unless the context indicates
9 otherwise,

10 (1) "authorized delegate" means a person whom a money services
11 licensee designates to provide money services on behalf of the money services
12 licensee;

13 (2) "bank" means an institution organized under federal or state law
14 that

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

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

23 (3) "control" means

24 (A) the ownership of, or the power to vote, directly or
25 indirectly, at least 25 percent of a class of voting securities or voting interests
26 of a money services licensee or person in control of a money services licensee;

27 (B) the power to elect a majority of executive officers,
28 managers, directors, trustees, or other persons exercising managerial authority
29 of a money services licensee or person in control of a money services licensee;
30 or

31 (C) the power to exercise directly or indirectly, a controlling

1 influence over the management or policies of a money services licensee or
2 person in control of a money services licensee;

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

5 (5) "currency exchange license" means a license under AS 06.55.201 -
6 06.55.204;

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

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

11 (8) "executive officer" means a president, a chair of the executive
12 committee, a chief financial officer, a responsible individual, or another individual
13 who performs similar functions; in this paragraph, "responsible individual" means an
14 individual who is employed by a money services licensee and has principal managerial
15 authority over the provision of money services by the money services licensee in this
16 state;

17 (9) "mobile location" means a vehicle or a movable facility where
18 currency exchange occurs;

19 (10) "monetary value" means a medium of exchange, whether or not
20 redeemable in money;

21 (11) "money" means a medium of exchange that is authorized or
22 adopted by the United States or a foreign government, including a monetary unit of
23 account established by an intergovernmental organization or by agreement between
24 two or more governments;

25 (12) "money services" means money transmission or currency
26 exchange;

27 (13) "money services license" means a currency exchange license or a
28 money transmission license;

29 (14) "money services licensee" means a person who holds a currency
30 exchange license or a money transmission license;

31 (15) "money transmission" means selling or issuing payment

1 instruments or stored value, or receiving money or monetary value for transmission,
2 but does not include the provision solely of delivery, online services,
3 telecommunications services, or network access;

4 (16) "money transmission license" means a license under
5 AS 06.55.101 - 06.55.107 or an approval under AS 06.55.103;

6 (17) "money transmission licensee" means a person who holds a
7 money transmission license;

8 (18) "outstanding" with respect to a payment instrument, means issued
9 or sold by or for the money services licensee and reported as sold but not yet paid by
10 or for the licensee;

11 (19) "payment instrument" means a check, a draft, a money order, a
12 traveler's check, or another instrument for the transmission or payment of money or
13 monetary value, whether or not negotiable, but does not include a credit card voucher,
14 a letter of credit, or an instrument that is redeemable by the issuer in goods or services;

15 (20) "person" means an individual, a corporation, a business trust, an
16 estate, a trust, a partnership, a limited liability company, an association, a joint
17 venture, a government, a governmental subdivision, an agency, or an instrumentality, a
18 public corporation, or any other legal or commercial entity;

19 (21) "record" means information that is inscribed on a tangible
20 medium or that is stored in an electronic or other medium and is retrievable in
21 perceivable form;

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

25 (23) "stored value" means monetary value that is evidenced by an
26 electronic record;

27 (24) "unsafe or unsound practice" means a practice or conduct by a
28 money transmission licensee or an authorized delegate of the money transmission
29 licensee if the practice creates the likelihood of material loss, insolvency, or
30 dissipation of the money transmission licensee's assets, or otherwise materially
31 prejudices the interests of the money transmission licensee's customers.

1 **Sec. 06.55.995. Short title.** This chapter may be cited as the Alaska Uniform
2 Money Services Act.

3 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
4 read:

5 **APPLICABILITY.** This Act applies to the provision of money services on or after
6 July 1, 2008.

7 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 **TRANSITION: REGULATIONS.** The Department of Commerce, Community, and
10 Economic Development may proceed to adopt regulations necessary to implement the
11 changes made by this Act. The regulations take effect under AS 44.62 (Administrative
12 Procedure Act), but not before July 1, 2008.

13 * **Sec. 4.** Section 3 of this Act takes effect immediately under AS 01.10.070(c).

14 * **Sec. 5.** Except as provided in sec. 4 of this Act, this Act takes effect July 1, 2008.

25-LS0508\O
Bannister
4/5/07

CS FOR SENATE BILL NO. 116()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR ELTON

Motion
to adopt
unsure if
adopted
5/7 am

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Uniform Money Services Act, to money transmission services,
2 and to currency exchange services; and providing for an effective date."

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 * Section 1. AS 06 is amended by adding a new chapter to read:

5 Chapter 55. Alaska Uniform Money Services Act.

6 Article 1. Money Transmission Licenses.

7 Sec. 06.55.101. License required. (a) A person may not engage in the
8 business of money transmission or advertise, solicit, or hold the person out as
9 providing money transmission unless the person

10 (1) holds a money transmission license; or

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

13 (b) A money transmission license is not transferable or assignable.

14 Sec. 06.55.102. Application for license. (a) A person applying for a money

1 transmission license shall apply in a form and in a medium prescribed by the
2 department. The application must state or contain

3 (1) the legal name and residential and business addresses of the
4 applicant and any fictitious or trade name used by the applicant in conducting the
5 applicant's business;

6 (2) a list of any criminal convictions of the applicant and any material
7 litigation in which the applicant has been involved in the 10-year period next
8 preceding the submission of the application;

9 (3) a description of any money services previously provided by the
10 applicant and the money services that the applicant seeks to provide in this state;

11 (4) a list of the applicant's proposed authorized delegates and the
12 locations in this state where the applicant and its authorized delegates propose to
13 engage in money transmission or provide other money services;

14 (5) a list of other states in which the applicant is licensed to engage in
15 money transmission or provide other money services and any license revocations,
16 suspensions, or other disciplinary action taken against the applicant in another state;

17 (6) information concerning any bankruptcy or receivership
18 proceedings affecting the applicant;

19 (7) a sample form of contract for authorized delegates, if applicable,
20 and a sample form of payment instrument or instrument on which stored value is
21 recorded, if applicable;

22 (8) the name and address of any bank through which the applicant's
23 payment instruments and stored value will be paid;

24 (9) a description of the source of money and credit to be used by the
25 applicant to provide money services; and

26 (10) any other information the department reasonably requires with
27 respect to the applicant.

28 (b) If an applicant is a corporation, a limited liability company, a partnership,
29 or another entity, the applicant shall also provide

30 (1) the date of the applicant's incorporation or formation and state or
31 country of incorporation or formation;

1 (2) if applicable, a certificate of good standing from the state or
2 country in which the applicant is incorporated or formed;

3 (3) a brief description of the structure or organization of the applicant,
4 including any parent or subsidiary of the applicant, and whether any parent or
5 subsidiary is publicly traded;

6 (4) the legal name, any fictitious or trade name, all business and
7 residential addresses, and the employment, in the 10-year period next preceding the
8 submission of the application of each executive officer, manager, director, or person
9 who has control of the applicant;

10 (5) a list of any criminal convictions and material litigation in which
11 any executive officer, manager, director, or person in control of the applicant has been
12 involved in the 10-year period next preceding the submission of the application;

13 (6) a copy of the applicant's audited financial statements for the most
14 recent fiscal year and, if available, for the two-year period next preceding the
15 submission of the application;

16 (7) a copy of the applicant's unconsolidated financial statements for the
17 current fiscal year, whether audited or not, and, if available, for the two-year period
18 next preceding the submission of the application;

19 (8) if the applicant is publicly traded, a copy of the most recent report
20 filed with the United States Securities and Exchange Commission under 15 U.S.C.
21 78m (Securities Exchange Act of 1934);

22 (9) if the applicant is a wholly owned subsidiary of

23 (A) a corporation publicly traded in the United States, a copy of
24 audited financial statements for the parent corporation for the most recent
25 fiscal year or a copy of the parent corporation's most recent report filed under
26 15 U.S.C. 78m (Securities Exchange Act of 1934); or

27 (B) a corporation publicly traded outside the United States, a
28 copy of documentation that is similar to the documentation required by (A) of
29 this paragraph and that is filed with the regulator of the parent corporation's
30 domicile outside the United States;

31 (10) if the applicant has a registered agent in this state, the name and

1 address of the applicant's registered agent in this state; and

2 (11) any other information the department reasonably requires with
3 respect to the applicant.

4 (c) A nonrefundable application fee and a license fee must accompany an
5 application for a money transmission license. The license fee shall be refunded if the
6 application is denied.

7 (d) The department may waive a requirement of (a) and (b) of this section or
8 permit an applicant to submit other information instead of the required information.

9 (e) In this section,

10 (1) "material litigation" means litigation that, according to generally
11 accepted accounting principles, is significant to an applicant's or a money transmission
12 licensee's financial health and would be required to be disclosed in the applicant's or
13 money transmission licensee's annual audited financial statements, report to
14 shareholders, or similar records;

15 (2) "money transmission license" does not include an approval under
16 AS 06.55.103.

17 **Sec. 06.55.103. Approval to engage in money transmission when licensed**
18 **in another state.** (a) A person who is licensed to engage in money transmission in at
19 least one other state, with the approval of the department and under this section, may
20 engage in money transmission, currency exchange, or both money transmission and
21 currency exchange in this state without being licensed under AS 06.55.102 if

22 (1) the state in which the person is licensed has enacted the Uniform
23 Money Services Act or the department determines that the money transmission laws of
24 the state in which the person is licensed are substantially similar to those imposed by
25 this chapter;

26 (2) the person submits to, and in the form required by, the department

27 (A) in a record, an application for approval to engage in money
28 transmission, currency exchange, or both money transmission and currency
29 exchange in this state without being licensed under AS 06.55.102;

30 (B) a nonrefundable application fee;

31 (C) a fee for the first year of operating with the approval given

1 under this section; this fee shall be refunded if the application is denied; and

2 (D) a certification of license history in the other state.

3 (b) Before granting a person approval under this section to engage in money
4 transmission, currency exchange, or both money transmission and currency exchange
5 in this state, the department shall make findings and conclusions as required by
6 regulation.

7 (c) When an application for approval under this section is complete, the
8 department shall promptly notify the applicant, in a record, of the date on which the
9 request was determined to be complete, and

10 (1) the department shall approve or deny the request within 120 days
11 after that date; or

12 (2) if the request is not approved or denied within 120 days after that
13 date,

14 (A) the request is approved; and

15 (B) the approval takes effect as of the first business day after
16 expiration of the 120-day period.

17 **Sec. 06.55.104. Security.** (a) Except as otherwise provided in (b) of this
18 section, a surety bond, a letter of credit, or another similar security acceptable to the
19 department in the amount of \$25,000 plus \$5,000 for each location, not exceeding a
20 total addition of \$125,000, must accompany an application for a money transmission
21 license.

22 (b) Security must be in a form satisfactory to the department and payable to
23 the state for the benefit of a claimant against the money transmission licensee to
24 secure the faithful performance of the obligations of the money transmission licensee
25 with respect to money transmission.

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

29 (d) A surety bond must cover claims for as long as the department specifies,
30 but for at least five years after the money transmission licensee ceases to provide
31 money services in this state. However, the department may permit the amount of

1 security to be reduced or eliminated before the expiration of that time to the extent the
2 amount of the money transmission licensee's payment instruments or stored-value
3 obligations outstanding in this state is reduced. The department may permit a money
4 transmission licensee to substitute another form of security acceptable to the
5 department for the security effective at the time the money transmission licensee
6 ceases to provide money services in this state.

7 (e) Instead of the security prescribed in this section, an applicant for a money
8 transmission license or a money transmission licensee may provide security in a form
9 prescribed by the department.

10 (f) The department may increase the amount of security required to a
11 maximum of \$500,000 if the financial condition of a money transmission licensee
12 requires the increase, as evidenced by reduction of net worth, financial losses, or other
13 relevant criteria.

14 **Sec. 06.55.105. Issuance of license.** (a) When an application is filed under
15 AS 06.55.102, the department shall investigate the applicant's financial condition and
16 responsibility, financial and business experience, character, and general fitness. The
17 department may conduct an on-site investigation of the applicant, the reasonable cost
18 of which the applicant shall pay. The department shall issue a license to an applicant
19 under AS 06.55.102 if the department finds that all of the following conditions have
20 been fulfilled:

21 (1) the applicant has complied with AS 06.55.102, 06.55.104, and
22 06.55.107; and

23 (2) the financial condition and responsibility, financial and business
24 experience, character, and general fitness of the applicant, and the competence,
25 experience, character, and general fitness of the executive officers, managers,
26 directors, and person in control of the applicant indicate that it is in the interest of the
27 public to permit the applicant to engage in money transmission;

28 (b) When an application for an original money transmission license under
29 AS 06.55.102 is complete, the department shall promptly notify the applicant in a
30 record of the date on which the application was determined to be complete, and

31 (1) the department shall approve or deny the application within 120

1 days after that date; or

2 (2) if the application is not approved or denied within 120 days after
3 that date,

4 (A) the application is approved; and

5 (B) the money transmission license takes effect as of the first
6 business day after expiration of the 120-day period.

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

8 (d) An applicant whose application under AS 06.55.102 is denied by the
9 department under AS 06.55.101 - 06.55.107 may appeal, within 30 days after receipt
10 of the notice of the denial, and request a hearing.

11 (e) In this section, "money transmission license" does not include an approval
12 under AS 06.55.103.

13 **Sec. 06.55.106. Renewal of license.** (a) A money transmission licensee shall
14 pay an annual renewal fee not later than 30 days before the anniversary of the issuance
15 of the money transmission license or, if the last day is not a business day, on the next
16 business day.

17 (b) A money transmission licensee shall submit a renewal report with the
18 renewal fee, in a form and in a medium prescribed by the department. The renewal
19 report must state or contain

20 (1) a copy of the money transmission licensee's most recent audited
21 annual financial statement or, if the money transmission licensee is a wholly owned
22 subsidiary of another corporation, the most recent audited consolidated annual
23 financial statement of the parent corporation or the money transmission licensee's
24 most recent audited consolidated annual financial statement;

25 (2) the number and monetary amount of payment instruments and
26 stored value sold by the money transmission licensee in this state that have not been
27 included in a renewal report, and the monetary amount of payment instruments and
28 stored value currently outstanding;

29 (3) a description of each material change in information submitted by
30 the money transmission licensee in its original license application that has not been
31 reported to the department on any required report;

1 (4) a list of the money transmission licensee's permissible investments
2 and a certification that the money transmission licensee continues to maintain
3 permissible investments according to the requirements set out in AS 06.55.501 and
4 06.55.502;

5 (5) proof that the money transmission licensee continues to maintain
6 adequate security as required by AS 06.55.104; and

7 (6) a list of the locations in this state where the money transmission
8 licensee or an authorized delegate of the money transmission licensee engages in
9 money transmission or provides other money services.

10 (c) If a money transmission licensee does not file a renewal report or pay its
11 renewal fee by the renewal date or any extension of time granted by the department,
12 the department shall send the money transmission licensee a notice of suspension.
13 Unless the money transmission licensee files the report and pays the renewal fee
14 before expiration of 10 days after the notice is sent, the money transmission licensee's
15 license is suspended 10 days after the department sends the notice of suspension. The
16 suspension shall be lifted if, within 20 days after its money transmission license is
17 suspended, the money transmission licensee

18 (1) files the report and pays the renewal fee; and

19 (2) pays a late fee for each day after suspension that the department did
20 not receive the renewal report and the renewal fee.

21 (d) The department for good cause may grant an extension of the renewal date.

22 **Sec. 06.55.107. Net worth.** A money transmission licensee shall maintain a net
23 worth of at least \$25,000 determined under generally accepted accounting principles.

24 **Article 2. Currency Exchange Licenses.**

25 **Sec. 06.55.201. License required.** (a) A person may not engage in currency
26 exchange or advertise, solicit, or hold the person out as providing currency exchange
27 for which the person receives revenues equal or greater than five percent of total
28 revenues unless the person

29 (1) holds a currency exchange license;

30 (2) holds a money transmission license; or

31 (3) is an authorized delegate of a person who holds a money

1 transmission license.

2 (b) A currency exchange license is not transferable or assignable.

3 **Sec. 06.55.202. Application for license.** (a) A person applying for a currency
4 exchange license under AS 06.55.201 - 06.55.204 shall apply in a form and in a
5 medium prescribed by the department. The application must state or contain

6 (1) the legal name and residential and business addresses of the
7 applicant if the applicant is an individual or, if the applicant is not an individual, the
8 name of each partner, executive officer, manager, and director;

9 (2) the location of the principal office of the applicant;

10 (3) the complete addresses of other locations in this state where the
11 applicant proposes to engage in currency exchange, including all mobile locations;

12 (4) a description of the source of money and credit to be used by the
13 applicant to engage in currency exchange; and

14 (5) other information the department reasonably requires with respect
15 to the applicant, but not more than the department may require under AS 06.55.101 -
16 06.55.107.

17 (b) A nonrefundable application fee and a currency exchange license fee must
18 accompany an application for a currency exchange license. The currency exchange
19 license fee shall be refunded if the application is denied.

20 **Sec. 06.55.203. Issuance of license.** (a) When an application for a currency
21 exchange license is filed under AS 06.55.201 - 06.55.204, the department shall
22 investigate the applicant's financial condition and responsibility, financial and business
23 experience, character, and general fitness. The department may conduct an on-site
24 investigation of the applicant, the reasonable cost of which the applicant shall pay. The
25 department shall issue a currency exchange license to an applicant under AS 06.55.201
26 - 06.55.204 if the department finds that all of the following conditions have been
27 fulfilled:

28 (1) the applicant has complied with AS 06.55.202; and

29 (2) the financial condition and responsibility, financial and business
30 experience, character, and general fitness of the applicant, and the competence,
31 experience, character, and general fitness of the executive officers, managers,

1 directors, and persons in control of the applicant indicate that it is in the interest of the
2 public to permit the applicant to engage in currency exchange.

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

7 (1) the department shall approve or deny the application within 120
8 days after that date; or

9 (2) if the application is not approved or denied within 120 days after
10 that date,

11 (A) the application is approved; and

12 (B) the department shall issue the currency exchange license
13 under AS 06.55.201 - 06.55.204 to take effect as of the first business day after
14 expiration of the period.

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

16 (d) An applicant whose application is denied by the department under
17 AS 06.55.201 - 06.55.204 may appeal, within 30 days after receipt of the notice of the
18 denial, from the denial and request a hearing.

19 **Sec. 06.55.204. Renewal of license.** (a) A currency exchange licensee shall
20 pay a biennial renewal fee not later than 30 days before each biennial anniversary of
21 the issuance of the currency exchange license or, if the last day is not a business day,
22 on the next business day.

23 (b) A currency exchange licensee under AS 06.55.201 - 06.55.204 shall submit
24 a renewal report with the renewal fee, in a form and in a medium prescribed by the
25 department. The renewal report must state or contain

26 (1) a description of each material change in information submitted by
27 the currency exchange licensee in its original currency exchange license application
28 that has not been reported to the department on any required report; and

29 (2) a list of the locations in this state where the currency exchange
30 licensee or an authorized delegate of the currency exchange licensee engages in
31 currency exchange, including mobile locations.

1 (c) If a currency exchange licensee does not file a renewal report and pay its
2 renewal fee by the renewal date or any extension of time granted by the department,
3 the department shall send the currency exchange licensee a notice of suspension.
4 Unless the currency exchange licensee files the report and pays the renewal fee before
5 expiration of 10 days after the notice is sent, the currency exchange license is
6 suspended 10 days after the department sends the notice of suspension.

7 (d) The department for good cause may grant an extension of the renewal date.

8 Article 3. Authorized Delegates.

9 Sec. 06.55.301. Relationship between licensee and authorized delegate. (a)

10 A contract between a money services licensee and an authorized delegate must require
11 the authorized delegate to operate in full compliance with this chapter. The money
12 services licensee shall furnish in a record to each authorized delegate policies and
13 procedures sufficient for compliance with this chapter.

14 (b) An authorized delegate shall remit all money owing to the money services
15 licensee under the terms of the contract between the money services licensee and the
16 authorized delegate. In this subsection, "remit" means to make direct payments of
17 money to a money services licensee or its representative authorized to receive money
18 or to deposit money in a bank in an account specified by the money services licensee.

19 (c) If a money services license is suspended or revoked or a money services
20 licensee does not renew its money services license, the department shall notify all
21 authorized delegates of the money services licensee whose names are in a record filed
22 with the department of the suspension, revocation, or nonrenewal. After notice is sent
23 or publication is made, an authorized delegate shall immediately cease to provide
24 money services as an authorized delegate of the money services licensee.

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

31 (e) An authorized delegate may not use a subdelegate to conduct money

1 services on behalf of a money services licensee.

2 **Sec. 06.55.302. Unauthorized activities.** A person may not act as an
3 authorized delegate for, or otherwise provide money services on behalf of, a person
4 who does not hold a money services license under this chapter.

5 **Article 4. Examinations, Reports, Records.**

6 **Sec. 06.55.401. Authority to conduct examinations.** (a) The department may
7 conduct an annual examination of a money services licensee or of any of its authorized
8 delegates upon 45 days' notice in a record to the money services licensee.

9 (b) The department may examine a money services licensee or its authorized
10 delegate, at any time, without notice, if the department has reason to believe that the
11 money services licensee or authorized delegate is engaging in an unsafe or unsound
12 practice or has violated or is violating this chapter or a regulation adopted or an order
13 issued under this chapter.

14 (c) If the department concludes that an on-site examination is necessary under
15 (a) of this section, the money services licensee shall pay the reasonable cost of the
16 examination.

17 (d) Information obtained during an examination under this chapter may be
18 disclosed only as provided in AS 06.55.407.

19 **Sec. 06.55.402. Cooperation.** The department may consult and cooperate with
20 other state money services regulators in enforcing and administering this chapter. The
21 department and other state money service regulators may jointly pursue examinations
22 and take other official action that they are otherwise empowered to take.

23 **Sec. 06.55.403. Reports.** (a) A money services licensee shall file with the
24 department within 15 business days any material changes in information provided in a
25 money services licensee's application as prescribed by the department.

26 (b) A money services licensee shall file with the department within 45 days
27 after the end of each fiscal quarter a current list of all authorized delegates and
28 locations in this state where the money services licensee or an authorized delegate of
29 the money services licensee provides money services, including mobile locations. The
30 money services licensee shall state the name and street address of each location and
31 authorized delegate.

1 (c) A money services licensee shall file a report with the department within
2 one business day after the money services licensee has reason to know of the
3 occurrence of any of the following events:

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

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

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

13 (4) the cancellation or other impairment of the money services
14 licensee's bond or other security;

15 (5) a charge against or conviction of the money services licensee or of
16 an executive officer, manager, director, or person in control of the money services
17 licensee for a felony; or

18 (6) a charge against or conviction of an authorized delegate for a
19 felony.

20 **Sec. 06.55.404. Change of control.** (a) A money services licensee shall

21 (1) give the department notice in a record of a proposed change of
22 control within 15 days after learning of the proposed change of control;

23 (2) request approval of the acquisition; and

24 (3) submit a nonrefundable fee with the notice.

25 (b) After review of a request for approval under (a) of this section, the
26 department may require the money services licensee to provide additional information
27 concerning the proposed persons in control of the money services licensee. The
28 additional information must be limited to the same types required of the money
29 services licensee or persons in control of the money services licensee as part of its
30 original money services license or renewal application.

31 (c) The department shall approve a request for change of control under (a) of

1 this section if, after investigation, the department determines that the person or group
2 of persons requesting approval has the competence, experience, character, and general
3 fitness to operate the money services licensee or person in control of the money
4 services licensee in a lawful and proper manner and that the public interest will not be
5 jeopardized by the change of control.

6 (d) When an application for a change of control under AS 06.55.401 -
7 06.55.407 is complete, the department shall notify the money services licensee in a
8 record of the date on which the request was determined to be complete, and

9 (1) the department shall approve or deny the request within 120 days
10 after that date; or

11 (2) if the request is not approved or denied within 120 days after that
12 date,

13 (A) the request is approved; and

14 (B) the department shall permit the change of control under this
15 section, to take effect as of the first business day after expiration of the period.

16 (e) The department, by regulation or order, may exempt a person from any of
17 the requirements of (a)(2) and (3) of this section if it is in the public interest to exempt
18 the person.

19 (f) The provisions of (a) of this section do not apply to a public offering of
20 securities.

21 (g) Before filing a request for approval to acquire control of a money services
22 licensee or person in control of a money services licensee, a person may request in a
23 record a determination from the department as to whether the person would be
24 considered a person in control of a money services licensee upon consummation of a
25 proposed transaction. If the department determines that the person would not be a
26 person in control of a money services licensee, the department shall enter an order to
27 that effect, and the proposed person and transaction are not subject to the requirements
28 of (a) - (c) of this section.

29 **Sec. 06.55.405. Records.** (a) A money services licensee shall maintain the
30 following records for determining its compliance with this chapter for at least three
31 years:

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

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

5 (3) bank statements and bank reconciliation records;

6 (4) records of outstanding payment instruments and stored-value
7 obligations;

8 (5) records of each payment instrument and stored-value obligation
9 paid within the three-year period;

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

12 (7) any other records the department reasonably requires by regulation.

13 (b) The items specified in (a) of this section may be maintained in any form of
14 record.

15 (c) Records may be maintained outside this state if they are made accessible to
16 the department on seven business days' notice that is sent in a record.

17 (d) All records maintained by the money services licensee as required in (a) -
18 (c) of this section are open to inspection by the department under AS 06.55.401.

19 **Sec. 06.55.406. Money laundering reports.** (a) A money services licensee and
20 an authorized delegate shall file with the attorney general all reports required by
21 federal currency reporting, record keeping, and suspicious transaction reporting
22 requirements as set out in 31 U.S.C. 5311, 31 C.F.R. 103, and other federal and state
23 laws pertaining to money laundering.

24 (b) The timely filing of a complete and accurate report required under (a) of
25 this section with the appropriate federal agency is compliance with the requirements of
26 (a) of this section, unless the department notifies the money services licensee that the
27 attorney general has notified the department that reports of this type are not being
28 regularly and comprehensively transmitted by the federal agency to the attorney
29 general.

30 **Sec. 06.55.407. Confidentiality.** (a) Except as otherwise provided in (b) of this
31 section, all information or reports obtained by the department from an applicant, a

1 licensee, or an authorized delegate are confidential and not subject to disclosure under
2 AS 40.25.100 - 40.25.220, including

3 (1) all information contained in or related to examination,
4 investigation, operating, or condition reports prepared by, on behalf of, or for the use
5 of the department; and

6 (2) financial statements, balance sheets, and authorized delegate
7 information.

8 (i) The department may disclose information that is not otherwise subject to
9 disclosure under (a) of this section to representatives of state or federal agencies who
10 promise in a record that they will maintain the confidentiality of the information or if
11 the department finds that the release is reasonably necessary for the protection of the
12 public and in the interests of justice, and the money services licensee has been given
13 previous notice by the department of its intent to release the information.

14 (c) This section does not prohibit the department from disclosing to the public
15 a list of money services licensees or the aggregated financial data concerning those
16 money services licensees.

17 **Article 5. Permissible Investments.**

18 **Sec. 06.55.501. Maintenance of permissible investments.** (a) A money
19 services licensee shall maintain at all times permissible investments that have a market
20 value computed under generally accepted accounting principles of not less than the
21 aggregate amount of all of its outstanding payment instruments and stored value
22 obligations issued or sold in all states and money transmitted from all states by the
23 money services licensee.

24 (b) The department, with respect to any money services licensees, may limit
25 the extent to which a type of investment within a class of permissible investments may
26 be considered a permissible investment, except for money and certificates of deposit
27 issued by a bank. The department by regulation may prescribe or by order allow other
28 types of investments that the department determines to have a safety substantially
29 equivalent to other permissible investments.

30 (c) Permissible investments, even if commingled with other assets of the
31 money services licensee, are held in trust for the benefit of the purchasers and holders

1 of the money services licensee's outstanding payment instruments and stored value
2 obligations in the event of bankruptcy or receivership of the money services licensee.

3 **Sec. 06.55.502. Types of permissible investments.** (a) Except to the extent
4 otherwise limited by the department under AS 06.55.501, the following investments
5 are permissible under AS 06.55.501:

6 (1) cash, a certificate of deposit, or a senior debt obligation of an
7 insured depository institution; in this paragraph, "insured depository institution" has
8 the meaning given in 12 U.S.C. 1813 (Federal Deposit Insurance Act);

9 (2) banker's acceptance or bill of exchange that is eligible for purchase
10 on endorsement by a member bank of the Federal Reserve System and is eligible for
11 purchase by a Federal Reserve Bank;

12 (3) an investment bearing a rating of one of the three highest grades as
13 defined by a nationally recognized organization that rates securities;

14 (4) an investment security that is an obligation of the United States or a
15 department, agency, or instrumentality of the United States, an investment in an
16 obligation that is guaranteed fully as to principal and interest by the United States, or
17 an investment in an obligation of a state or a governmental subdivision, agency, or
18 instrumentality of a state;

19 (5) receivables that are payable to a money services licensee from its
20 authorized delegates, in the ordinary course of business, under contracts that are not
21 past due or doubtful of collection if the aggregate amount of receivables under this
22 paragraph does not exceed 20 percent of the total permissible investments of a money
23 services licensee and the money services licensee does not hold at one time
24 receivables under this paragraph in any one person aggregating more than 10 percent
25 of the money services licensee's total permissible investments; and

26 (6) a share or a certificate issued by an open-end management
27 investment company that is registered with the United States Securities and Exchange
28 Commission under 15 U.S.C. 80a-1 - 80a-64 (Investment Company Act of 1940), and
29 whose portfolio is restricted by the management company's investment policy to
30 investments specified in (1) - (4) of this subsection.

31 (b) The following investments are permissible under AS 06.55.501, but only

1 to the extent specified:

2 (1) an interest-bearing bill, note, bond, or debenture of a person whose
3 equity shares are traded on a national securities exchange or on a national over-the-
4 counter market, if the aggregate of investments under this paragraph does not exceed
5 20 percent of the total permissible investments of a money services licensee and the
6 money services licensee does not at one time hold investments under this paragraph in
7 any one person aggregating more than 10 percent of the money services licensee's
8 total permissible investments;

9 (2) a share of a person traded on a national securities exchange or a
10 national over-the-counter market or a share or a certificate issued by an open-end
11 management investment company that is registered with the United States Securities
12 and Exchange Commission under 15 U.S.C. 80a-1 - 80a-64 (Investment Company Act
13 of 1940), and whose portfolio is restricted by the management company's investment
14 policy to shares of a person traded on a national securities exchange or a national over-
15 the-counter market, if the aggregate of investments under this paragraph does not
16 exceed 20 percent of the total permissible investments of a money services licensee
17 and the money services licensee does not at one time hold investments in any one
18 person aggregating more than 10 percent of the money services licensee's total
19 permissible investments;

20 (3) a demand-borrowing agreement made to a corporation or a
21 subsidiary of a corporation whose securities are traded on a national securities
22 exchange, if the aggregate of the amount of principal and interest outstanding under
23 demand-borrowing agreements under this paragraph does not exceed 20 percent of the
24 total permissible investments of a money services licensee and the money services
25 licensee does not at one time hold principal and interest outstanding under demand-
26 borrowing agreements under this paragraph with any one person aggregating more
27 than 10 percent of the money services licensee's total permissible investments; and

28 (4) any other investment the department designates, to the extent
29 specified by the department.

30 (c) The aggregate of investments under (b) of this section may not exceed 50
31 percent of the total permissible investments of a money services licensee calculated

1 under AS 06.55.501.

2 **Article 6. Enforcement.**

3 **Sec. 06.55.601. Suspension and revocation; receivership.** (a) The
4 department may suspend or revoke a money services license, place a money services
5 licensee in receivership, or order a money services licensee to revoke the designation
6 of an authorized delegate if

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

9 (2) the money services licensee does not cooperate with an
10 examination or investigation by the department;

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

13 (4) an authorized delegate is convicted of a violation of a state or
14 federal anti-money laundering statute, or violates a regulation adopted or an order
15 issued under this chapter, as a result of the money services licensee's wilful
16 misconduct or wilful blindness;

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

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

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

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

29 (b) In determining whether a money services licensee is engaging in an unsafe
30 or unsound practice, the department may consider the size and condition of the money
31 services licensee's money transmission, the magnitude of the loss, the gravity of the

1 violation of this chapter, and the previous conduct of the person involved.

2 **Sec. 06.55.602. Suspension and revocation of authorized delegates.** (a) The
3 department may issue an order suspending or revoking the designation of an
4 authorized delegate if the department finds that

5 (1) the authorized delegate violated this chapter or a regulation adopted
6 or an order issued under this chapter;

7 (2) the authorized delegate did not cooperate with an examination or
8 investigation by the department;

9 (3) the authorized delegate engaged in fraud, intentional
10 misrepresentation, or gross negligence;

11 (4) the authorized delegate is convicted of a violation of a state or
12 federal anti-money laundering statute;

13 (5) the competence, experience, character, or general fitness of the
14 authorized delegate or a person in control of the authorized delegate indicates that it is
15 not in the public interest to permit the authorized delegate to provide money services;
16 or

17 (6) the authorized delegate is engaging in an unsafe or unsound
18 practice.

19 (b) In determining whether an authorized delegate is engaging in an unsafe or
20 unsound practice, the department may consider the size and condition of the
21 authorized delegate's provision of money services, the magnitude of the loss, the
22 gravity of the violation of this chapter or a regulation adopted or order issued under
23 this chapter, and the previous conduct of the authorized delegate.

24 **Sec. 06.55.603. Orders to cease and desist.** (a) If the department determines
25 that a violation of this chapter or of a regulation adopted or an order issued under this
26 chapter by a money services licensee or authorized delegate is likely to cause
27 immediate and irreparable harm to the money services licensee, its customers, or the
28 public as a result of the violation, or cause insolvency or significant dissipation of
29 assets of the money services licensee, the department may issue an order requiring the
30 money services licensee or authorized delegate to cease and desist from the violation.
31 The order becomes effective on service of it on the money services licensee or

1 authorized delegate.

2 (b) The department may issue an order against a money services licensee to
3 cease and desist from providing money services through an authorized delegate who is
4 the subject of a separate order by the department.

5 (c) An order to cease and desist remains effective and enforceable pending the
6 completion of an administrative proceeding under AS 06.55.601 or 06.55.602.

7 (d) A money services licensee or an authorized delegate who is served with an
8 order to cease and desist may petition the superior court for a judicial order setting
9 aside, limiting, or suspending the enforcement, operation, or effectiveness of the order
10 pending the completion of an administrative proceeding under AS 06.55.601 or
11 06.55.602.

12 (e) An order to cease and desist expires unless the department commences an
13 administrative proceeding under AS 06.55.601 or 06.55.602 within 10 days after it is
14 issued.

15 **Sec. 06.55.604. Consent orders.** The department may enter into a consent
16 order at any time with a person to resolve a matter arising under this chapter or a
17 regulation adopted or order issued under this chapter. A consent order shall be signed
18 by the person to whom it is issued or by the person's authorized representative and
19 must indicate agreement with the terms contained in the order. A consent order may
20 provide that it does not constitute an admission by a person that this chapter or a
21 regulation adopted or an order issued under this chapter has been violated.

22 **Sec. 06.55.605. Civil penalties.** The department may assess a civil penalty
23 against a person who violates this chapter or a regulation adopted or an order issued
24 under this chapter in an amount not to exceed \$1,000 each day for each day the
25 violation is outstanding.

26 **Sec. 06.55.606. Criminal penalties.** (a) A person who intentionally makes a
27 false statement, misrepresentation, or false certification in a record filed or required to
28 be maintained under this chapter or who intentionally makes a false entry or omits a
29 material entry in a record filed or required to be maintained under this chapter is guilty
30 of a class C felony.

31 (b) A person who knowingly engages in an activity for which a money

1 services license is required under this chapter without being licensed as a money
2 services licensee and who receives more than \$500 in compensation within a 30-day
3 period from this activity is guilty of a class C felony.

4 (c) A person who knowingly engages in an activity for which a money
5 services license is required under this chapter without being licensed as a money
6 services licensee and who receives no more than \$500 in compensation within a 30-
7 day period from this activity is guilty of a class A misdemeanor.

8 **Sec. 06.55.607. Unlicensed persons.** (a) If the department has reason to
9 believe that a person has violated or is violating AS 06.55.101 or 06.55.201, the
10 department may issue an order to show cause why an order to cease and desist should
11 not issue requiring that the person cease and desist from the violation of AS 06.55.101
12 or 06.55.201.

13 (b) In an emergency, the department may petition the superior court for the
14 issuance of a temporary restraining order.

15 (c) An order to cease and desist becomes effective upon service of it upon the
16 person.

17 (d) An order to cease and desist remains effective and enforceable pending the
18 completion of an administrative proceeding under AS 06.55.701 and 06.55.702.

19 (e) A person who is served with an order to cease and desist for violating
20 AS 06.55.101 or 06.55.201 may petition the superior court for a judicial order setting
21 aside, limiting, or suspending the enforcement, operation, or effectiveness of the order
22 pending the completion of an administrative proceeding under AS 06.55.701 and
23 06.55.702.

24 (f) An order to cease and desist expires unless the department commences an
25 administrative proceeding within 10 days after it is issued.

26 **Article 7. Administrative Procedures.**

27 **Sec. 06.55.701. Administrative proceedings.** All administrative proceedings
28 under this chapter shall be conducted under AS 44.62 (Administrative Procedure Act),
29 except that hearings shall be conducted by the office of administrative hearings
30 (AS 44.64.010).

31 **Sec. 06.55.702. Hearings.** (a) Except as otherwise provided in AS 06.55.603

1 and 06.55.607 and in (b) of this section, the department may not suspend or revoke a
2 money services license, place a money services licensee in receivership, issue an order
3 to cease and desist, suspend or revoke the designation of an authorized delegate, or
4 assess a civil penalty without notice and an opportunity to be heard. The department
5 shall also hold a hearing when requested to hold a hearing by an applicant whose
6 application for a money services license is denied.

7 (b) Under AS 06.55.106(c) and 06.55.204(c), the department may suspend a
8 money services license without a hearing unless the money services licensee requests
9 a hearing.

10 **Sec. 06.55.703. Investigative powers.** (a) In its investigations under this
11 chapter, the department may administer oaths or affirmations and, on its own motion
12 or on the request of a party to a proceeding, may subpoena witnesses, compel the
13 attendance of witnesses, take evidence, and require the production of material that is
14 relevant to the investigation, including the existence, description, nature, custody,
15 condition, and location of books, documents, and other tangible items, and the identity
16 and location of persons having knowledge of relevant facts or other material
17 reasonably calculated to lead to the discovery of admissible evidence.

18 (c) If a person fails without a lawful excuse to obey a subpoena, and after
19 reasonable notice to all persons affected by the failure, the department may apply to
20 the superior court for an order compelling the person to obey the subpoena.

21 **Article 8. Miscellaneous Provisions.**

22 **Sec. 06.55.801. Uniformity of application and construction.** In applying and
23 construing this chapter, consideration shall be given to the need to promote uniformity
24 of the law with respect to its subject matter among states that enact it.

25 **Sec. 06.55.802. Exclusions.** This chapter does not apply to

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

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

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

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

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

12 (A) the United States or a department, an agency, or an
13 instrumentality of the United States; or

14 (B) a state, or a department, an agency, or an instrumentality of
15 a state;

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

21 (7) a registered futures commission merchant under the federal
22 commodities laws, to the extent of the merchant's operation as a registered futures
23 commission merchant under the federal commodities laws;

24 (8) a person who provides clearance or settlement services under a
25 registration as a clearing agency or an exemption from the registration granted under
26 the federal securities laws, to the extent of the person's operation as a provider of
27 clearance or settlement services under a registration as a clearing agency or an
28 exemption from the registration granted under the federal securities laws;

29 (9) an operator of a payment system to the extent that the operator
30 provides processing, clearing, or settlement services, between or among persons
31 excluded by this section, in connection with wire transfers, credit card transactions,

1 debit card transactions, stored-value transactions, automated clearing house transfers,
2 or similar funds transfers; or

3 (10) a person registered as a securities broker-dealer under federal or
4 state securities laws, to the extent of the person's operation as a securities broker-
5 dealer under federal or state securities laws.

6 **Sec. 06.55.810. Notices required.** (a) A money services licensee shall display
7 a sign at each location where the money services licensee

8 (1) provides money services under this chapter; and

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

11 (b) An authorized delegate shall display a sign at each location where the
12 authorized delegate provides money services under this chapter.

13 (c) The sign required by (a) or (b) of this section shall be displayed at all times
14 in full view of persons visiting the location and shall give the department's address and
15 the department's telephone number for receiving calls regarding complaints and other
16 concerns about money services licensees, authorized delegates, and the money
17 services provided by money services licensees and authorized delegates.

18 **Sec. 06.55.820. Transmission.** Within 10 business days after receiving the
19 money or equivalent value for money transmission, unless otherwise ordered by the
20 customer or unless the money transmission licensee has reason to believe a crime has
21 occurred, is occurring, or may occur as a result of the money transmission, a money
22 transmission licensee shall

23 (1) transmit after the deduction of fees the monetary equivalent of all
24 money or equivalent value received for the money transmission; or

25 (2) issue instructions making the money or its monetary equivalent
26 available to the person designated by the customer.

27 **Sec. 6.55.830. Receipt.** (a) A money transmission licensee who receives
28 money or equivalent value for a money transmission shall provide a receipt to the
29 customer that clearly states the amount of the money or the equivalent value presented
30 by the customer for the money transmission and the total fees charged by the money
31 transmission licensee.

1 (b) If a money transmission licensee fixes, when the money transmission is
2 initiated, the rate of exchange for a money transmission to be paid in the currency of
3 another government, the receipt provided by (a) of this section must disclose the rate
4 of exchange for the transaction and any limit on the length of time that the payment
5 will be made at that fixed rate of exchange.

6 (c) If a money transmission licensee does not fix the rate of exchange for a
7 money transmission to be paid in the currency of another government, the receipt
8 provided under (a) of this section must disclose that the rate of exchange for the
9 money transmission will be set when the person designated by the customer to receive
10 the money takes possession of the money.

11 **Sec. 06.55.840. Refunds.** Within 10 days after receiving a written request for a
12 refund, a money transmission licensee shall refund to a customer money equal to the
13 money or equivalent value received from the customer for a money transmission,
14 unless

15 (1) before receiving the written request

16 (A) the money has been transmitted to the person designated by
17 the customer to receive the money transmission and the person has taken
18 possession of the money; in this section, "transmitted" means made available
19 to the person designated by the customer to receive the money, whether or not
20 the person designated by the customer has taken possession of the money; or

21 (B) instructions have been given making a monetary equivalent
22 available to the person designated by the customer to receive the money
23 transmission;

24 (2) the money transmission licensee has reason to believe that a crime
25 has occurred, is occurring, or may occur as a result of transmitting or refunding the
26 money as requested by the customer; or

27 (3) the money transmission licensee is otherwise prohibited by law
28 from making a refund.

29 **Sec. 06.55.850. Establishment of fees and other charges.** (a) The department
30 shall adopt regulations that establish the amount and manner of payment of fees
31 required under this chapter.

1 (b) The department shall establish fee levels under (a) of this section so that
2 the total amount of fees collected for both money transmission licenses and currency
3 exchange licenses under this chapter approximately equals the department's actual
4 total regulatory costs for both money transmission licenses and currency exchange
5 licenses. The department shall set the fee levels so that the fee levels for both money
6 transmission licenses and currency exchange licenses are the same.

7 (c) The department shall annually review each fee level to determine whether
8 the regulatory costs are approximately equal to fee collections. If the review indicates
9 that fee collections and regulatory costs are not approximately equal, the department
10 shall calculate fee adjustments and adopt regulations under (a) of this section to
11 implement the adjustments.

12 (d) In January of each year, the department shall report to the office of
13 management and budget all fee levels and revisions made for the previous year under
14 this section.

15 (e) In this section,

16 (1) "fee" means an application fee, a money services license fee, a
17 first-year operation fee under AS 06.55.103(a)(2)(C), a renewal fee, the daily late fee
18 for not submitting a renewal report and paying the renewal fee under AS 06.55.106,
19 investigation costs under AS 06.55.105 and 06.55.203, an examination cost under
20 AS 06.55.401, and a fee for approving a change of control under AS 06.55.404;

21 (2) "regulatory costs" means the costs of the department that are
22 attributable to regulation of money services licensing under this chapter.

23 **Sec. 06.55.890. Definitions.** In AS 06.55.820 - 06.55.840,

24 (1) "fees" does not include revenue that a money services licensee
25 generates from a money transmission when converting the currency of one
26 government into the currency of another government;

27 (2) "monetary equivalent" means, for money transmissions that will be
28 redeemed in a currency other than the currency that the customer uses to purchase the
29 money transmission, the amount of money in the currency of the government that the
30 recipient of the money transmission is to receive, as converted at the retail exchange
31 rate offered by the money transmission licensee to the customer for the money

1 transmission.

2 (2) "money transmission licensee" means a person who holds a money
3 services license and a person who is an authorized delegate.

4 **Article 9. General Provisions.**

5 **Sec. 06.55.990. Definitions.** In this chapter, unless the context indicates
6 otherwise,

7 (1) "authorized delegate" means a person whom a money services
8 licensee designates to provide money services on behalf of the money services
9 licensee;

10 (2) "bank" means an institution organized under federal or state law
11 that accepts demand deposits or deposits that the depositor may use for payment to
12 third parties and engages in the business of making commercial loans;

13 (3) "control" means

14 (A) the ownership of, or the power to vote, directly or
15 indirectly, at least 25 percent of a class of voting securities or voting interests
16 of a money services licensee or person in control of a money services licensee;

17 (B) the power to elect a majority of executive officers,
18 managers, directors, trustees, or other persons exercising managerial authority
19 of a money services licensee or person in control of a money services licensee;
20 or

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

24 (4) "currency exchange" means receipt of revenues from the exchange
25 of money of one government for money of another government;

26 (5) "currency exchange license" means a license under AS 06.55 201 -
27 06.55.204;

28 (6) "currency exchange licensee" means a person who holds a currency
29 exchange license;

30 (7) "department" means the Department of Commerce, Community,
31 and Economic Development;

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

7 (9) "mobile location" means a vehicle or a movable facility where
8 currency exchange occurs;

9 (10) "monetary value" means a medium of exchange, whether or not
10 redeemable in money;

11 (11) "money" means a medium of exchange that is authorized or
12 adopted by the United States or a foreign government, including a monetary unit of
13 account established by an intergovernmental organization or by agreement between
14 two or more governments;

15 (12) "money services" means money transmission or currency
16 exchange;

17 (13) "money services license" means a currency exchange license or a
18 money transmission license;

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

21 (15) "money transmission" means selling or issuing payment
22 instruments or stored value, or receiving money or monetary value for transmission,
23 but does not include the provision solely of delivery, online services,
24 telecommunications services, or network access;

25 (16) "money transmission license" means a license under
26 AS 06.55.101 - 06.55.107 or an approval under AS 06.55.103;

27 (17) "money transmission licensee" means a person who holds a
28 money transmission license;

29 (18) "outstanding" with respect to a payment instrument, means issued
30 or sold by or for the money services licensee and reported as sold but not yet paid by
31 or for the licensee;

1 (19) "payment instrument" means a check, a draft, a money order, a
2 traveler's check, or another instrument for the transmission or payment of money or
3 monetary value, whether or not negotiable, but does not include a credit card voucher,
4 a letter of credit, or an instrument that is redeemable by the issuer in goods or services;

5 (20) "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 an instrumentality, a
8 public corporation, or any other legal or commercial entity;

9 (21) "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 (22) "state" means a state of the United States, the District of
13 Columbia, Puerto Rico, the United States Virgin Islands, or a territory or insular
14 possession subject to the jurisdiction of the United States;

15 (23) "stored value" means monetary value that is evidenced by an
16 electronic record;

17 (24) "unsafe or unsound practice" means a practice or conduct by a
18 money transmission licensee or an authorized delegate of the money transmission
19 licensee if the practice creates the likelihood of material loss, insolvency, or
20 dissipation of the money transmission licensee's assets, or otherwise materially
21 prejudices the interests of the money transmission licensee's customers.

22 **Sec. 06.55.995. Short title.** This chapter may be cited as the Alaska Uniform
23 Money Services Act.

24 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
25 read:

26 **APPLICABILITY.** This Act applies to the provision of money services on or after
27 July 1, 2008.

28 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
29 read:

30 **TRANSITION: REGULATIONS.** The Department of Commerce, Community, and
31 Economic Development may proceed to adopt regulations necessary to implement the

1 changes made by this Act. The regulations take effect under AS 44.62 (Administrative
2 Procedure Act), but not before July 1, 2008.

3 * Sec. 4. Section 3 of this Act takes effect immediately under AS 01.10.070(c).

4 * Sec. 5. Except as provided in sec. 4 of this Act, this Act takes effect July 1, 2008.

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.