

1 AN ACT relating to money transmitters.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 286.11-003 is amended to read as follows:

4 As used in this subtitle, unless the context requires otherwise:

- 5 (1) "Affiliate" means any person who directly or indirectly through one (1) or more
6 intermediaries controls, is controlled by, or is under common control with, another
7 person;
- 8 (2) "Agent" means a person authorized by written agreement and designated by the
9 licensee to act on behalf of a licensee under the provisions of this subtitle;
- 10 (3) "Applicant" means a person filing an application or renewal application for a license
11 under this subtitle;
- 12 (4) "Control" means:
- 13 (a) Ownership of, or the power to vote, directly or indirectly, twenty-five percent
14 (25%) or more of a class of voting securities or voting interests of a licensee
15 or applicant, or person in control of a licensee or applicant;
- 16 (b) The power to elect a majority of executive officers, managers, directors,
17 trustees, or other persons exercising managerial authority of a licensee or
18 applicant, or person in control of a licensee or applicant; or
- 19 (c) The power to exercise, directly or indirectly, a controlling influence over the
20 management or policies of a licensee or applicant, or person in control of a
21 licensee or applicant;
- 22 (5) "Controlling person" means any person in control of a licensee;
- 23 (6) "Director" means a member of a licensee's or applicant's board of directors if the
24 applicant or licensee is a corporation, or manager if the applicant or licensee is a
25 limited liability company, or a partner if the applicant or licensee is a partnership;
- 26 (7) "Electronic instrument" means a card or other tangible object for the transmission or
27 payment of money ***or another medium of exchange***, including a stored value card

1 or device, which contains a microprocessor chip, magnetic stripe, or other means for
2 storage of information, that is prefunded and for which the value is decremented
3 upon each use, but does not include a card or other tangible object that is
4 redeemable by the issuer in the issuer's goods and services;

5 (8) ~~["Commissioner" means the commissioner of the Department of Financial~~
6 ~~Institutions;~~

7 ~~(9)~~ "Executive officer" means the president, chairperson of the executive committee,
8 responsible individual, chief financial officer, and any other person who performs
9 similar functions;

10 ~~(9)~~~~(10)~~ "Financial institution" means any person doing business under the laws of any
11 state or commonwealth or the United States relating to banks, bank holding
12 companies, savings banks, savings and loan associations, trust companies, or credit
13 unions;

14 ~~(10)~~~~(11)~~ "Insolvent" means that appearing upon examination of any licensee or its
15 agent that its liabilities exceeds its assets or it cannot meet its obligations in the
16 usual and ordinary course of business for any reason;

17 ~~(11)~~~~(12)~~ "Key shareholder" means any person, or group of persons acting in concert,
18 who is the owner of twenty percent (20%) or more of any voting class of an
19 applicant's or licensee's stock;

20 ~~(12)~~~~(13)~~ "Licensee" means a person licensed under this subtitle;

21 ~~(13)~~~~(14)~~ "Material litigation" means litigation that according to generally accepted
22 accounting principles is significant to an applicant's or a licensee's financial health,
23 and would be required to be disclosed in the applicant's or licensee's annual audited
24 financial statements, report to shareholders, or similar records, including any
25 adjudication against an applicant or licensee by a federal or state administrative or
26 regulatory agency relating to a violation of the Bank Secrecy Act, 31 U.S.C. secs.
27 5311-5332, ~~or~~~~and~~ 31 C.F.R. ~~pts. 1000-1099~~~~[pt. 103]~~, regardless of whether the

1 applicant or licensee has admitted liability or fault;

2 ~~(14)~~~~(15)~~ "[~~Monetary value~~" means a ~~Medium of exchange~~":

3 (a) Means an instrument used to facilitate the sale, purchase, or trade of goods
 4 or services between parties, whether or not redeemable in money; and

5 (b) Shall include electronic instruments and virtual currency;

6 ~~(15)~~~~(16)~~ "Money" means a medium of exchange that is authorized or adopted by the
 7 United States or a foreign government or other recognized medium of exchange,
 8 including a monetary unit of account established by an intergovernmental
 9 organization or by agreement between two (2) governments;

10 ~~(16)~~~~(17)~~ "Money transmission" means engaging in the business of receiving money or
 11 another medium of exchange~~[monetary value]~~ to transmit, deliver, or instruct to be
 12 transmitted or delivered, money or another medium of exchange~~[monetary value]~~
 13 to another location inside or outside the United States by any and all means,
 14 including but not limited to wire, facsimile, electronic transfer, or issuing stored
 15 value;

16 ~~(17)~~~~(18)~~ "Money transmitter" means a person that is engaged in money transmission;

17 ~~(18)~~~~(19)~~ "Net worth" means the excess of assets over liabilities as determined by
 18 generally accepted accounting principles;

19 ~~(20) "Department" means the Kentucky Department of Financial Institutions.;~~

20 ~~(19)~~~~(21)~~ "Outstanding payment instrument" means any payment instrument issued by
 21 the licensee which has been sold or issued in the United States directly by the
 22 licensee or any payment instrument issued by the licensee which has been sold by
 23 an agent of the licensee in the United States, which has been reported to the licensee
 24 as having been sold, and which has not yet been paid by or for the issuer;

25 ~~(20)~~~~(22)~~ ~~(a)~~ "Payment instrument":

26 (a) Means:

27 1. A check, draft, money order, traveler's check, or other written or

1 electronic instrument or order for the transmission or payment of money,
2 sold or issued to one (1) or more persons, whether or not such
3 instrument is negotiable; or

4 2. The purchase or the deposit of funds for the purchase of a check, draft,
5 money order, traveler's check, or other written or electronic instrument;

6 and

7 (b) ~~["Payment instrument"]~~ Does not include any credit card voucher, letter of
8 credit, or instrument that is redeemable by the issuer in goods or services;

9 (21)~~(23)~~ "Person" means any individual, corporation, business trust, estate, trust,
10 partnership, limited liability company, association, organization, joint venture,
11 government and any subdivision, agency or instrumentality thereof, or any other
12 legal or commercial entity;

13 (22)~~(24)~~ "Record" means information that is inscribed on a tangible medium, or that is
14 stored in an electronic or other medium, and is retrievable in perceivable form;

15 (23)~~(25)~~ "Remit" means either to make direct payment of the funds to the licensee or
16 its representatives authorized to receive those funds, or to deposit the funds in a
17 bank, credit union, or savings and loan association, or other similar financial
18 institution in an account specified by the licensee;

19 (24)~~(26)~~ "Responsible individual" means an individual who is employed by a licensee
20 and has principal managerial authority over the provision of money transmission by
21 the licensee in this state;

22 (25)~~(27)~~ "State" means a state or commonwealth of the United States, the District of
23 Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular
24 possession that is subject to the jurisdiction of the United States;

25 (26)~~(28)~~ "Stored value" means a medium of exchange~~monetary value~~ that is
26 evidenced by an electronic record;~~and~~

27 (27)~~(29)~~ "Unsafe or unsound practice" means a practice or conduct by a person

1 licensed to provide money transmission, or an agent of such a person, which creates
 2 the likelihood of material loss, insolvency, or dissipation of the licensee's assets, or
 3 otherwise materially prejudices the financial condition of the licensee or the
 4 interests of its customers; and

5 **(28) "Virtual currency":**

6 **(a) Means a digital representation of value used as a medium of exchange, a**
 7 **unit of account, or stored value, but does not have legal tender status as**
 8 **recognized by the United States government; and**

9 **(b) Does not include the software or protocols governing the transfer of the**
 10 **digital representation of value or other uses of virtual distributed ledger**
 11 **systems to verify ownership or authenticity in a digital capacity when the**
 12 **virtual currency is not used as a medium of exchange.**

13 ➔Section 2. KRS 286.11-007 is amended to read as follows:

14 This subtitle does not apply to:

- 15 (1) The United States or any department, agency, or instrumentality thereof;
- 16 (2) The United States Post Office or a contractor acting on behalf of the United States
 17 Post Office;
- 18 (3) A state or any agency, department, or political subdivision of a state;
- 19 (4) A financial institution or its subsidiaries, affiliates, and service corporations, or any
 20 office of an international banking corporation, branch of a foreign bank, or
 21 corporation organized pursuant to the Bank Service ~~Company~~[Corporation] Act, 12
 22 U.S.C. secs. ~~1861~~[181] to 1867, or a corporation organized under the Edge Act, 12
 23 U.S.C. secs. 611 to 633;
- 24 (5) A service provider that:
- 25 (a) Pursuant to a written agreement, acts on behalf of an entity exempt from
 26 licensure as set forth in subsection (4) of this section; and
- 27 (b) Allows the state or federal regulators with regulatory jurisdiction over the

1 exempt entity to examine and inspect the service provider's applicable records,
2 books, and transactions;

3 (6) A service provider that receives money, or a medium of exchange,~~[monetary value]~~
4 on behalf of an entity selling goods or services other than money transmission
5 services if:

6 (a) The entity, upon receipt of funds by the service provider, immediately either:

- 7 1. Provides the purchased goods or services to the purchaser; or
- 8 2. Credits the purchaser for the full amount of money, or the medium of
9 exchange,~~[monetary value]~~ received by the service provider, which
10 credit is not revocable by the entity, and evidences this credit in writing;
11 and

12 (b) The entity is obligated to provide the purchased goods or services to the
13 purchaser regardless of whether or not the service provider transmits the
14 money, or medium of exchange,~~[monetary value]~~ to the entity; or

15 (7) The provision of electronic transfer of government benefits for any federal, state, or
16 county governmental agency as defined in Federal Reserve Board Regulation E, by
17 a contractor for and on behalf of the United States or any department, agency, or
18 instrumentality thereof, or any state or any political subdivisions thereof.

19 ➔Section 3. KRS 286.11-017 is amended to read as follows:

20 (1) Each application shall be accompanied by a nonrefundable application fee~~[in the~~
21 ~~amount]~~ of five hundred dollars (\$500) and a nonrefundable license fee of five
22 hundred dollars (\$500)~~[if application is made on or before March 31, or the next~~
23 ~~business day if March 31 falls on a weekend or holiday. If application is made after~~
24 ~~March 31, the license fee shall be two hundred fifty dollars (\$250). The license shall~~
25 ~~remain in force through September 30 of the same year the license is issued].~~

26 (2) A license issued between January 1 and October 31 of the same calendar year
27 shall expire on December 31 of the same calendar year. A license issued between

1 November 1 and December 31 of the same calendar year shall expire on
2 December 31 of the following calendar year.

3 ➔Section 4. KRS 286.11-021 is amended to read as follows:

- 4 (1) A licensee under this subtitle shall pay an annual renewal fee of five hundred
5 dollars (\$500) no later than December 31~~September 20~~ of each year.
- 6 (2) The renewal fee shall be accompanied by a written renewal report, in a form
7 prescribed by the commissioner, which shall include:
- 8 (a) A copy of the licensee's most recent audited annual financial statement, or if
9 the licensee is a wholly owned subsidiary of another corporation, the most
10 recent audited consolidated annual financial statement of the parent
11 corporation, or the licensee's most recent audited financial statement;
- 12 (b) For the most recent quarter for which data is available prior to the date of the
13 filing of the renewal application, but in no event more than one hundred
14 twenty (120) days prior to the renewal date, a list of the number of payment
15 instruments sold by the licensee in the state, the dollar amount of those
16 instruments, and the dollar amount of those instruments currently outstanding;
- 17 (c) Any material changes to any of the information submitted by the licensee on
18 its original application which have not previously been reported to the
19 commissioner on any other report required to be filed under this subtitle;
- 20 (d) A list of the licensee's permissible investments under this subtitle and a
21 certification that the licensee continues to maintain permissible investments
22 according to the requirements set forth in KRS 286.11-015; and
- 23 (e) A list of the locations, including names, physical addresses, and telephone
24 numbers, in this state where the licensee or agent of the licensee engages in
25 money transmission.
- 26 (3) The failure of a licensee to pay the annual renewal fee, or file the written renewal
27 report, by the renewal date of December 31~~September 20~~, shall result in the

1 expiration of the licensee's license by operation of law by December 31~~September~~
2 ~~30~~ of the same year. The commissioner may reinstate the license if the licensee
3 becomes compliant with this subtitle and pays a civil penalty equal to the amount of
4 the annual renewal fee, as specified in this section, within thirty (30) days of the
5 expiration of the license.