

REVISOR OF STATUTES OFFICE

300 S.W. 10th Street, Ste. 010-E
Topeka, KS 66612-1592
Telephone 785-296-2321 Fax 785-296-6668

MEMORANDUM

To: Chairman Knox and members of the House Financial Institutions Committee
From: Matt Sterling, Assistant Revisor of Statutes
Date: March 6, 2012
Subject: Senate Bill 372

SB 372 would amend K.S.A. 2011 Supp. 9-508, 9-509, 9-510, 9-511, 9-512, 9-513, 9-513a and 9-513c concerning the Kansas money transmitter act. The bill would amend definitions used in the act, allow the bank commissioner to establish an adjustable fee schedule for licensees, allow the commissioner to issue orders to address violations of the act and update the list of prohibited actions that are subject to disciplinary action under the act.

Section 1 of the bill would add the definition of “agent” to mean “an entity or person designated by the licensee, or by an exempt entity, to engage in the business of transmitting money on behalf of the licensee, or an exempt entity, at one or more physical locations throughout the state or through the internet.” The section also would revise the definition of “permissible investments.” The new definition would include deposit accounts, debt obligations, any investment with a rating of one of the three highest grades and investment grade bonds and general obligations of a state, agency or political subdivision of a state or federal governmental entity.

Section 2 of the bill would delete a provision that allowed the license application fee to be established by agency rules and regulations. The bill would permit the Commissioner to determine the form and manner of submission of the application and the application fee for the license and each agent location. The bill would define “each agent location” as “each physical location within the state where money transmission is conducted, including but not limited to, branch offices, authorized vendor offices, delegate offices, kiosks and drop boxes.” Section 2 would also grant the commissioner the authority to administer oaths, subpoena witnesses and documents, take evidence and require the production of any document relevant to an investigation, examination or proceeding under the act.

Section 5 of the bill permits the commission to issue an order to address any violation of the act by: Assessing a fine of up to \$5,000 per violation, assessing the agency’s costs for investigating and enforcing the act, requiring a person to pay restitution for any loss occurring as a result of a violation, barring future licensure and any other action necessary to carry out the act. The bill also gives the commissioner the authority to enter into a consent order or bring an action

for injunctive relief to enjoin a violation of enforce compliance with the act. Any person that engages in activities that are regulated and require licensure would be considered to have consented to the jurisdiction of the Kansas courts for any actions arising under the act.

Section 7 of the bill would expand the list of prohibited actions that could give rise to license revocation. Such prohibited actions would include: Filing a document or statement that falsely represents or omits a material fact, concealing a fact or a condition which would clearly justify the commissioner's refusal to grant a license had the fact been known, engaging in any transaction, practice or business conduct or advertising that is fraudulent or deceptive in connection with money transmission, failing to maintain sufficient records or permit an audit, being the subject of any disciplinary action by any state or federal agency, having a final judgment entered against the person in a civil action and the commissioner finds the conduct would indicate that licensure would be contrary to the public interest and any instances where the person has violated an order, rule and regulation or provision of law applicable to money transmission.

Section 8 of the bill would permit the commissioner to accept an examination or investigation report from another state or federal licensing agency in which the accepted report is an official report of the commissioner. However, acceptance of the report would not waive any fee required by the act.

The remaining changes in the bill are technical in nature.