

SENATE BILL No. 372

By Committee on Financial Institutions and Insurance

2-2

Proposed Amendment for SB 372  
Senate Committee on Financial  
Institutions and Insurance  
Prepared by Ken Wilke  
Senior Assistant Revisor  
February 21, 2012

1 AN ACT concerning the Kansas money ~~transmitters~~act, amending K.S.A.  
2 2011 Supp. 9-508, 9-509, 9-510, 9-511, 9-512, 9-513, 9-513a and 9-  
3 513c and repealing the existing sections.

Transmitter

4  
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2011 Supp. 9-508 is hereby amended to read as  
7 follows: 9-508. As used in this act:

8 (a) "Agent" means an entity or person designated by the licensee, or  
9 by an exempt entity, to engage in the business of transmitting money on  
10 behalf of the licensee, or an exempt entity, at one or more physical  
11 locations throughout the state or through the internet;

12 (b) "commissioner" means the state bank commissioner;

13 (b) (c) "electronic instrument" means a card or other tangible object  
14 for the transmission or payment of money, including a stored value card or  
15 device which contains a microprocessor chip, magnetic stripe or other  
16 means for the storage of information, that is prefunded and for which the  
17 value is decremented upon each use, but does not include a card or other  
18 tangible object that is redeemable by the issuer in goods or services;

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

21 (e) (e) "money transmission" means to engage in the business of the  
22 sale or issuance of payment instruments or of receiving money or  
23 monetary value for transmission to a location within or outside the United  
24 States by wire, facsimile, electronic means or any other means;

25 (e) (f) "outstanding payment instrument" means any payment  
26 instrument issued by the licensee which has been sold in the United States  
27 directly by the licensee or any money order or instrument issued by the  
28 licensee which has been sold by an agent of the licensee in the United  
29 States, which has been reported to the licensee as having been sold and  
30 which has not yet been paid by or for the licensee;

31 (g) (g) "payment instrument" means any electronic or written check,  
32 draft, money order, travelers check or other electronic or written  
33 instrument or order for the transmission or payment of money, sold or  
34 issued to one or more persons, whether or not such instrument is  
35 negotiable. The term "payment instrument" does not include any credit  
36 card voucher, any letter of credit or any instrument which is redeemable by

1 ~~estate sales or brokerage or as an incidental and necessary part of any~~  
2 ~~lawful business activity. This act shall not apply to:~~

3 (a) (1) Banks, building and loan associations, savings and loan  
4 associations, savings banks or credit unions, including agents of any of  
5 these business entities, organized under the laws of and subject to the  
6 supervision of this state, another state or the United States;

7 (2) the government of the United States and its agencies, including  
8 agents of the government and its agencies; or  
9 (3) the state of Kansas and its agencies, including agents of the state  
10 of Kansas and its agencies.

11 (b) This act also shall not apply to the distribution, transmission or  
12 payment of money as a part of the lawful practice of law, bookkeeping,  
13 accounting or real estate sales or brokerage or as an incidental and  
14 necessary part of any lawful business activity.

15 Sec. 5. K.S.A. 2011 Supp. 9-512 is hereby amended to read as  
16 follows: 9-512. (a) The commissioner ~~has the power to~~ issue an order to  
17 address any violation of this act:

after notice and an opportunity for  
a hearing, may

18 (1) Assessing a fine against any person who violates this act, or rules  
19 and regulations adopted thereto, in an amount not to exceed \$5,000 per  
20 violation;

21 (2) assessing the agency's operating costs and expenses for  
22 investigating and enforcing this act;

23 (3) requiring the person to pay restitution for any loss arising from  
24 the violation or requiring the person to disgorge any profits arising from  
25 the violation;

26 (4) barring the person from future application for licensure pursuant  
27 to the act; and

28 (5) requiring such affirmative action as in the judgment of the  
29 commissioner which will carry out the purposes of this act.

30 (b) The commissioner may enter into a consent order at any time with  
31 a person to resolve a matter arising under this act, rules and regulations  
32 adopted thereto, or an order issued pursuant to this act.

33 (c) Any person who knowingly violates any provision of this act shall  
34 be guilty of a severity level 9, nonperson felony. Each transaction in  
35 violation of this act and each day that a violation continues shall be a  
36 separate offense except that whenever a corporation shall violate any  
37 provision of this act, such violation shall be deemed to be also that of the  
38 Whenever a corporation violates any provision of this act, such violation  
39 shall be attributed to individual directors, officers, and agents of such  
40 corporation who shall who have authorized, ordered, or done performed  
41 any of the acts constituting such violation in whole or in part.

42 (b) (d) A corporation and its directors, officers, and agents may each  
43 be prosecuted separately for violations of this act and the acquittal or