



HOUSE FINANCIAL INSTITUTIONS COMMITTEE

March 14, 2013

Mr. Chairman and Committee Members,

My name is Diane Bellquist, General Counsel for the Office of the State Bank Commissioner. I am here today in support of Senate Bill (SB) 139. This legislation amends the Kansas Money Transmitter Act and was requested by our office. I will try to explain the changes in the law, and then discuss why the agency sees a need for these changes.

First, we have proposed changes to definitions section. Specifically, we are seeking to:

- amend the definition of "agent." We are frequently presented with questions regarding the definition of who is an agent. The amendment makes clear anyone who receives funds from consumers on behalf of a licensee is an "agent." This amendment will assist the industry in understanding who are reportable agents;
- add the definition of "licensee." This addition is merely for the sake of clarity;
- add a definition for nationwide multi-state licensing system and registry (NMLS) which is referenced later in the Act;
- amend the definition of "money transmission" to make explicitly clear the mere exchange of currency alone is not the business of money transmission;
- amend the definition of permissible investments to expand allowable investments. Money transmitters must maintain a certain amount of permissible investments. The purpose for this is to ensure the licensee has adequate liquid assets to cover the licensee's outstanding transactions. Receivables which are due to a licensee from its agents, and which are not past due, are currently allowed towards satisfying the permissible investments requirement. We believe it is prudent to also allow receivables due from consumers which result from online credit card transactions;
- add a definition for "resident" which is used later in the act for describing the transactions with persons which are subject to the Act. This definition clarifies that Act applies to those who engage in the business of money transmission with individuals and businesses; and
- add a definition for "tangible net worth" which is considered during the application process in determining whether the applicant meets the criteria for a license.

Second, we are seeking amendments to allow money transmitters to submit original and renewal license applications through the nationwide multi-state licensing system and registry (NMLS) which is established by the Conference of State Bank Supervisors (CSBS). The NMLS licensing system was mandated by the SAFE Act in federal law for the licensing and registration of loan originators. The system has expanded to allow for multi-state licensing of other financial institutions, including money transmitters. About 50 of our 65 money transmitters are already submitting applications through the NMLS system as mandated by other states which they are licensed in. The addition of the statutory language to allow the licensing through the NMLS

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system is intended to accommodate those that already are submitting applications through the NMLS and those who prefer to do so. To allow them to apply in Kansas through the NMLS system will result in increased efficiencies for the applicant. We have added language throughout the Act to accommodate the use of the NMLS system.

The statutory amendments to the application process would also result in changing over to a year-end renewal cycle. Currently, all of our money transmitters are issued licenses that expire one year from their individual application dates. As the number of licensees continue to increase, the individual expiration dates will become increasingly difficult for agency staff to manage. As such, we are seeking to move to a renewal cycle where licenses are effective January 1 and expire December 31 of each year.

Third, we are seeking amendments which clarify the requirements for issuance of a license. We have included the word "tangible" net worth to clarify how we will calculate an applicant's net worth in connection with the \$250,000 minimum requirement. We have also inserted language to allow the Commissioner to accept a consolidated financial statement from the applicant's holding company for determining whether the applicant meets the net worth requirements.

Fourth, we have amended the statutory language regarding the appointment of agents. We have clarified that only licensees are allowed to appoint agents. Agents for exempt entities must be licensed pursuant to the Act. A person contracting with an exempt entity as their agent is still required to have a license pursuant to this Act. The amendments clarify no agent may appoint a subagent. We believe this is necessary to ensure the licensed money transmitter has adequate control and oversight over the agents that are conducting money transmission on its behalf.

Licensees are required to report their agents to the Commissioner during the original and renewal application process, and quarterly they would report any additions or deletions to their agent list. We are seeking the quarterly updates for consistency with the NMLS reporting requirements.

Licensees would be required to have a written contract with their agents. This helps confirm and solidify the agent relationship and assists the office in examination of the licensee's business of money transmission. The contract must contain certain provisions that explain the limitations of the agent's authority.

We have proposed an amendment to adapt to the growing industry of prepaid access cards. We are proposing to allow companies offering prepaid access cards to share the agents of another licensee for the sole purpose of reloading funds onto their cards.

The last substantial change is to allow the Commissioner to adopt rules and regulations to implement the Act.

To conclude, I request your support of SB 139 and thank you for allowing me to speak today.