
ENGROSSED SUBSTITUTE SENATE BILL 6414

State of Washington 57th Legislature

2002 Regular Session

By Senate Committee on Labor, Commerce & Financial Institutions
(originally sponsored by Senators Prentice, Winsley, Deccio, Keiser and
Kline; by request of Attorney General and Governor Locke)

READ FIRST TIME 02/04/2002.

1 AN ACT Relating to licensing and regulating money transmitters and
2 currency exchangers; adding a new chapter to Title 19 RCW; prescribing
3 penalties; and providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** SHORT TITLE. This chapter may be known and
6 cited as the uniform money services act.

7 NEW SECTION. **Sec. 2.** PURPOSE. It is the intent of the
8 legislature to establish a state system of licensure and regulation to
9 ensure the safe and sound operation of money transmission and currency
10 exchange businesses, to ensure that these businesses are not used for
11 terrorist or criminal purposes, to promote confidence in the state's
12 financial system, and to protect the public interest.

13 NEW SECTION. **Sec. 3.** DEFINITIONS. The definitions in this
14 section apply throughout this chapter unless the context clearly
15 requires otherwise.

1 (1) "Affiliate" means any person who directly or indirectly through
2 one or more intermediaries, controls, is controlled by, or is under
3 common control with, another person.

4 (2) "Applicant" means a person that files an application for a
5 license under this chapter, including the applicant's proposed
6 responsible individual and executive officers, and persons in control
7 of the applicant.

8 (3) "Authorized delegate" means a person a licensee designates to
9 provide money services on behalf of the licensee. A person that is
10 exempt from licensing under this chapter cannot have an authorized
11 delegate.

12 (4) "Financial institution" means any person doing business under
13 the laws of any state or the United States relating to commercial
14 banks, bank holding companies, savings banks, savings and loan
15 associations, trust companies, or credit unions.

16 (5) "Control" means:

17 (a) Ownership of, or the power to vote, directly or indirectly, at
18 least twenty-five percent of a class of voting securities or voting
19 interests of a licensee or applicant, or person in control of a
20 licensee or applicant;

21 (b) Power to elect a majority of executive officers, managers,
22 directors, trustees, or other persons exercising managerial authority
23 of a licensee or applicant, or person in control of a licensee or
24 applicant; or

25 (c) Power to exercise directly or indirectly, a controlling
26 influence over the management or policies of a licensee or applicant,
27 or person in control of a licensee or applicant.

28 (6) "Currency exchange" means exchanging the money of one
29 government for money of another government, or holding oneself out as
30 able to exchange the money of one government for money of another
31 government. The following persons are not considered currency
32 exchangers:

33 (a) Affiliated businesses that engage in currency exchange for a
34 business purpose other than currency exchange;

35 (b) A person who provides currency exchange services for a person
36 acting primarily for a business, commercial, agricultural, or
37 investment purpose when the currency exchange is incidental to the
38 transaction;

1 (c) A person who deals in coins or a person who deals in money
2 whose value is primarily determined because it is rare, old, or
3 collectible; and

4 (d) A person who in the regular course of business chooses to
5 accept from a customer the currency of a country other than the United
6 States in order to complete the sale of a good or service other than
7 currency exchange, that may include cash back to the customer, and does
8 not otherwise trade in currencies or transmit money for compensation or
9 gain.

10 (7) "Executive officer" means a president, chairperson of the
11 executive committee, chief financial officer, responsible individual,
12 or other individual who performs similar functions.

13 (8) "Licensee" means a person licensed under this chapter.

14 (9) "Material litigation" means litigation that according to
15 generally accepted accounting principles is significant to an
16 applicant's or a licensee's financial health and would be required to
17 be disclosed in the applicant's or licensee's annual audited financial
18 statements, report to shareholders, or similar records.

19 (10) "Money" means a medium of exchange that is authorized or
20 adopted by the United States or a foreign government or other
21 recognized medium of exchange. "Money" includes a monetary unit of
22 account established by an intergovernmental organization or by
23 agreement between two or more governments.

24 (11) "Money services" means money transmission or currency
25 exchange.

26 (12) "Money transmission" means receiving money or its equivalent
27 value to transmit, deliver, or instruct to be delivered the money or
28 its equivalent value to another location, inside or outside the United
29 States, by any means including but not limited to by wire, facsimile,
30 or electronic transfer. "Money transmission" does not include the
31 provision solely of online or telecommunications services, or network
32 access.

33 (13) "Outstanding money transmission" means the value of all money
34 transmissions reported to the licensee for which the money transmitter
35 has received money or its equivalent value from the customer for
36 transmission, but has not yet completed the money transmission by
37 delivering the money or monetary value to the person designated by the
38 customer.

1 (14) "Payment instrument" means a check, draft, money order,
2 traveler's check, or other instrument for the transmission or payment
3 of money or its equivalent value, whether or not negotiable. "Payment
4 instrument" does not include a credit card voucher, letter of credit,
5 or instrument that is redeemable by the issuer in goods or services.

6 (15) "Person" means an individual, corporation, business trust,
7 estate, trust, partnership, limited liability company, association,
8 joint venture; government, governmental subdivision, agency, or
9 instrumentality; public corporation; or any other legal or commercial
10 entity.

11 (16) "Record" means information that is inscribed on a tangible
12 medium, or that is stored in an electronic or other medium, and is
13 retrievable in perceivable form.

14 (17) "Responsible individual" means an individual who is employed
15 by a licensee and has principal managerial authority over the provision
16 of money services by the licensee in this state.

17 (18) "State" means a state of the United States, the District of
18 Columbia, Puerto Rico, the United States Virgin Islands, or any
19 territory or insular possession subject to the jurisdiction of the
20 United States.

21 (19) "Director" means the director of financial institutions.

22 (20) "Unsafe or unsound practice" means a practice or conduct by a
23 person licensed to provide money services, or an authorized delegate of
24 such a person, which creates the likelihood of material loss,
25 insolvency, or dissipation of the licensee's assets, or otherwise
26 materially prejudices the financial condition of the licensee or the
27 interests of its customers.

28 (21) "Board director" means a member of the applicant's or
29 licensee's board of directors if the applicant is a corporation or
30 limited liability company, or a partner if the applicant or licensee is
31 a partnership.

32 (22) "Annual license assessment due date" means the date specified
33 in rule by the director upon which the annual license assessment is
34 due.

35 (23) "Currency exchanger" means a person that is engaged in
36 currency exchange.

37 (24) "Money transmitter" means a person that is engaged in money
38 transmission.

1 (25) "Mobile location" means a vehicle or movable facility where
2 money services are provided.

3 (26) "Stored value" means the recognition of value or credit to the
4 account of persons, when that value or credit is primarily intended to
5 be redeemed for a limited universe of goods, intangibles, services, or
6 other items provided by the issuer of the stored value, its affiliates,
7 or others involved in transactions functionally related to the goods,
8 intangibles, services, or other items of the issuer or its affiliates.

9 NEW SECTION. **Sec. 4.** EXCLUSIONS. This chapter does not apply to:

10 (1) The United States or a department, agency, or instrumentality
11 thereof;

12 (2) Money transmission by the United States postal service or by a
13 contractor on behalf of the United States postal service;

14 (3) A state, county, city, or a department, agency, or
15 instrumentality thereof;

16 (4) A financial institution or its subsidiaries, affiliates, and
17 service corporations, or any office of an international banking
18 corporation, branch of a foreign bank, or corporation organized
19 pursuant to the Bank Service Corporation Act (12 U.S.C. Sec. 1861-1867)
20 or a corporation organized under the Edge Act (12 U.S.C. Sec. 611-633);

21 (5) Electronic funds transfer of governmental benefits for a
22 federal, state, county, or governmental agency by a contractor on
23 behalf of the United States or a department, agency, or instrumentality
24 thereof, or a state or governmental subdivision, agency, or
25 instrumentality thereof;

26 (6) A board of trade designated as a contract market under the
27 federal Commodity Exchange Act (7 U.S.C. Sec. 1-25) or a person that,
28 in the ordinary course of business, provides clearance and settlement
29 services for a board of trade to the extent of its operation as, or
30 for, a board of trade;

31 (7) A registered futures commission merchant under the federal
32 commodities laws to the extent of its operation as such a merchant;

33 (8) A person that provides clearance or settlement services under
34 a registration as a clearing agency, or an exemption from that
35 registration granted under the federal securities laws, to the extent
36 of its operation as such a provider;

37 (9) An operator of a payment system only to the extent that it
38 provides processing, clearing, or settlement services, between or among

1 persons who are all excluded by this section, in connection with wire
2 transfers, credit card transactions, debit card transactions, stored-
3 value transactions, automated clearinghouse transfers, or similar funds
4 transfers;

5 (10) A person registered as a securities broker-dealer or
6 investment advisor under federal or state securities laws to the extent
7 of its operation as such a broker-dealer or investment advisor;

8 (11) An insurance company, title insurance company, or escrow agent
9 to the extent that such an entity is lawfully authorized to conduct
10 business in this state as an insurance company, title insurance
11 company, or escrow agent and to the extent that they engage in money
12 transmission or currency exchange as an ancillary service when
13 conducting insurance, title insurance, or escrow activity; or

14 (12) The issuance, sale, use, redemption, or exchange of stored
15 value or of payment instruments.

16 NEW SECTION. **Sec. 5.** MONEY TRANSMITTER LICENSE REQUIRED. (1) A
17 person may not engage in the business of money transmission, or
18 advertise, solicit, or hold itself out as providing money transmission,
19 unless the person is:

20 (a) Licensed as a money transmitter under this chapter; or

21 (b) An authorized delegate of a person licensed as a money
22 transmitter under this chapter.

23 (2) A money transmitter license is not transferable or assignable.

24 NEW SECTION. **Sec. 6.** APPLICATION FOR A MONEY TRANSMITTER LICENSE.

25 (1) A person applying for a money transmitter license under this
26 chapter shall do so in a form and in a medium prescribed in rule by the
27 director. The application must state or contain:

28 (a) The legal name, business addresses, and residential address, if
29 applicable, of the applicant and any fictitious or trade name used by
30 the applicant in conducting its business;

31 (b) The legal name, residential and business addresses, date of
32 birth, social security number, employment history for the ten-year
33 period preceding the submission of the application of the applicant's
34 proposed responsible individual, and documentation that the proposed
35 responsible individual is a citizen of the United States or has
36 obtained legal immigration status to work in the United States. In

1 addition, the applicant shall provide the fingerprints of the proposed
2 responsible individual upon the request of the director;

3 (c) For the ten-year period preceding submission of the
4 application, a list of any criminal convictions of the proposed
5 responsible individual of the applicant, any material litigation in
6 which the applicant has been involved, and any litigation involving the
7 proposed responsible individual relating to the provision of money
8 services;

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

12 (e) A list of the applicant's proposed authorized delegates and the
13 locations in this state where the applicant and its authorized
14 delegates propose to engage in the provision of money services;

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

19 (g) A list of any license revocations, suspensions, restrictions,
20 or other disciplinary action taken against any money services business
21 involving the proposed responsible individual;

22 (h) Information concerning any bankruptcy or receivership
23 proceedings involving or affecting the applicant or the proposed
24 responsible individual;

25 (i) A sample form of contract for authorized delegates, if
26 applicable;

27 (j) A description of the source of money and credit to be used by
28 the applicant to provide money services; and

29 (k) Any other information regarding the background, experience,
30 character, financial responsibility, and general fitness of the
31 applicant, the applicant's responsible individual, or authorized
32 delegates that the director may require in rule.

33 (2) If an applicant is a corporation, limited liability company,
34 partnership, or other entity, the applicant shall also provide:

35 (a) The date of the applicant's incorporation or formation and
36 state or country of incorporation or formation;

37 (b) If applicable, a certificate of good standing from the state or
38 country in which the applicant is incorporated or formed;

1 (c) A brief description of the structure or organization of the
2 applicant, including any parent or subsidiary of the applicant, and
3 whether any parent or subsidiary is publicly traded;

4 (d) The legal name, any fictitious or trade name, all business and
5 residential addresses, date of birth, social security number, and
6 employment history in the ten-year period preceding the submission of
7 the application for each executive officer, board director, or person
8 that has control of the applicant;

9 (e) If the applicant or its corporate parent is not a publicly
10 traded entity, the director may request the fingerprints of each
11 executive officer, board director, or person that has control of the
12 applicant;

13 (f) A list of any criminal convictions, material litigation, and
14 any litigation related to the provision of money services, in the ten-
15 year period preceding the submission of the application in which any
16 executive officer, board director, or person in control of the
17 applicant has been involved;

18 (g) A copy of the applicant's audited financial statements for the
19 most recent fiscal year or, if the applicant is a wholly owned
20 subsidiary of another corporation, the most recent audited consolidated
21 annual financial statement of the parent corporation or the applicant's
22 most recent audited consolidated annual financial statement, and in
23 each case, if available, for the two-year period preceding the
24 submission of the application;

25 (h) A copy of the applicant's unconsolidated financial statements
26 for the current fiscal year, whether audited or not, and, if available,
27 for the two-year period preceding the submission of the application;

28 (i) If the applicant is publicly traded, a copy of the most recent
29 report filed with the United States securities and exchange commission
30 under section 13 of the federal Securities Exchange Act of 1934 (15
31 U.S.C. Sec. 78m);

32 (j) If the applicant is a wholly owned subsidiary of:

33 (i) A corporation publicly traded in the United States, a copy of
34 audited financial statements for the parent corporation for the most
35 recent fiscal year or a copy of the parent corporation's most recent
36 report filed under section 13 of the federal Securities Exchange Act of
37 1934 (15 U.S.C. Sec. 78m); or

1 (ii) A corporation publicly traded outside the United States, a
2 copy of similar documentation filed with the regulator of the parent
3 corporation's domicile outside the United States;

4 (k) If the applicant has a registered agent in this state, the name
5 and address of the applicant's registered agent in this state; and

6 (l) Any other information that the director may require in rule
7 regarding the applicant, each executive officer, or each board director
8 to determine the applicant's background, experience, character,
9 financial responsibility, and general fitness.

10 (3) A nonrefundable application fee and an initial license fee, as
11 determined in rule by the director, must accompany an application for
12 a license under this chapter. The initial license fee must be refunded
13 if the application is denied.

14 (4) The director may waive one or more requirements of subsection
15 (1) or (2) of this section or permit an applicant to submit other
16 information in lieu of the required information.

17 NEW SECTION. **Sec. 7. SECURITY.** (1) Each money transmitter
18 licensee shall maintain a surety bond, or other similar security
19 acceptable to the director, in the amount of fifty thousand dollars
20 plus ten thousand dollars per location, including locations of
21 authorized delegates, not exceeding a total addition of five hundred
22 thousand dollars.

23 (2) The surety bond shall run to the state of Washington as
24 obligee, and shall run to the benefit of the state and any person or
25 persons who suffer loss by reason of a licensee's or licensee's
26 authorized delegate's violation of this chapter or the rules adopted
27 under this chapter. A claimant against a money transmitter licensee
28 may maintain an action on the bond, or the director may maintain an
29 action on behalf of the claimant.

30 (3) The surety bond shall be continuous and may be canceled by the
31 surety upon the surety giving written notice to the director of its
32 intent to cancel the bond. The cancellation is effective thirty days
33 after the notice of cancellation is received by the director or the
34 director's designee. Whether or not the bond is renewed, continued,
35 replaced, or modified, including increases or decreases in the penal
36 sum, it is considered one continuous obligation, and the surety upon
37 the bond is not liable in an aggregate or cumulative amount exceeding
38 the penal sum set forth on the face of the bond. In no event may the

1 penal sum, or any portion thereof, at two or more points in time, be
2 added together in determining the surety's liability.

3 (4) A surety bond or other security must cover claims for at least
4 five years after the date of a money transmitter licensee's violation
5 of this chapter, or at least five years after the date the money
6 transmitter licensee ceases to provide money services in this state,
7 whichever is longer.

8 (5) In the event that a money transmitter licensee does not
9 maintain a surety bond or other form of security satisfactory to the
10 director in the amount required under subsection (1) of this section,
11 the director may issue a temporary cease and desist order under section
12 28 of this act.

13 (6) The director may increase the amount of security required to a
14 maximum of one million dollars if the financial condition of a money
15 transmitter licensee so requires, as evidenced by reduction of net
16 worth, financial losses, potential losses as a result of violations of
17 this chapter or rules adopted under this chapter, or other relevant
18 criteria specified by the director in rule.

19 (7) An applicant or a licensee may petition the director or the
20 director's designee to waive the requirement for a surety bond if the
21 applicant is unable to obtain a surety bond.

22 (8) In determining whether to grant a waiver of the surety bond
23 requirement, the director or director's designee shall consider the
24 potential benefit and potential risk to the public in granting the
25 waiver, including but not limited to:

26 (a) The availability and affordability of money transmission
27 services in the community served by the applicant or licensee;

28 (b) The general availability and affordability of surety bonds in
29 the insurance market;

30 (c) Whether unique characteristics of the licensee or applicant
31 make it difficult for the licensee or applicant to obtain a surety
32 bond;

33 (d) Whether the applicant or licensee has violated this chapter,
34 the rules adopted under this chapter, or any similar statute or rules
35 in any other state where the applicant or licensee held or holds a
36 license;

37 (e) Whether the applicant or licensee has paid claims, either
38 directly or through a surety bond or other insurance policy, in the

1 three calendar years preceding the filing of the petition for a waiver
2 of the surety bond requirement; and

3 (f) Whether the responsible individual, or any executive officer,
4 board director, or person in control of the applicant or licensee has
5 been charged and is awaiting trial, or has been convicted of, a felony
6 or of any other crime alleging dishonesty, theft, or fraud.

7 (9) When granting a waiver of the surety bond requirement, the
8 director or the director's designee may require the applicant or
9 licensee to maintain higher net worth or may restrict the license of
10 the applicant or licensee as a condition of granting a waiver from the
11 surety bond requirement, including but not limited to restricting the
12 geographic area the applicant or licensee may serve, restricting the
13 community the applicant or licensee may serve, or restricting the
14 volume of money transmissions the applicant or licensee may perform in
15 a given period of time.

16 NEW SECTION. **Sec. 8.** NET WORTH FOR MONEY TRANSMITTER. A money
17 transmitter licensed under this chapter shall maintain a net worth,
18 determined in accordance with generally accepted accounting principles,
19 as determined in rule by the director. The director shall require a
20 net worth of at least ten thousand dollars and not more than fifty
21 thousand dollars. In the event that a licensee's net worth, as
22 determined in accordance with generally accepted accounting principles,
23 falls below twenty-five thousand dollars, the director or the
24 director's designee may initiate action under sections 25 and 28 of
25 this act. The licensee may request a hearing on such an action under
26 chapter 34.05 RCW.

27 NEW SECTION. **Sec. 9.** ISSUANCE OF MONEY TRANSMITTER LICENSE. (1)
28 When an application for a money transmitter license is filed under this
29 chapter, the director or the director's designee shall investigate the
30 applicant's financial condition and responsibility, financial and
31 business experience, competence, character, and general fitness. The
32 director or the director's designee may conduct an on-site
33 investigation of the applicant, the cost of which must be paid by the
34 applicant as specified in section 34 of this act or rules adopted under
35 this chapter. The director shall issue a money transmitter license to
36 an applicant under this chapter if the director or the director's

1 designee finds that all of the following conditions have been
2 fulfilled:

3 (a) The applicant has complied with sections 6, 7, and 8 of this
4 act;

5 (b) The financial condition and responsibility, financial and
6 business experience, competence, character, and general fitness of the
7 applicant; and the competence, financial and business experience,
8 character, and general fitness of the executive officers, proposed
9 responsible individual, board directors, and persons in control of the
10 applicant; indicate that it is in the interest of the public to permit
11 the applicant to engage in the business of providing money transmission
12 services; and

13 (c) Neither the applicant, nor any executive officer, nor person
14 who exercises control over the applicant, nor the proposed responsible
15 individual is listed on the specially designated nationals and blocked
16 persons list prepared by the United States department of the treasury
17 as a potential threat to commit terrorist acts or to finance terrorist
18 acts.

19 (2) The director may for good cause extend the application review
20 period.

21 (3) An applicant whose application is denied by the director under
22 this chapter may appeal under chapter 34.05 RCW.

23 (4) A money transmitter license issued under this chapter is valid
24 from the date of issuance and remains in effect with no fixed date of
25 expiration unless otherwise suspended or revoked by the director or
26 unless the license expires for nonpayment of the annual license
27 assessment and any late fee, if applicable.

28 (5) A money transmitter licensee may surrender a license by
29 delivering the original license to the director along with a written
30 notice of surrender. The written notice of surrender must include
31 notice of where the records of the licensee will be stored and the
32 name, address, telephone number, and other contact information of a
33 responsible party who is authorized to provide access to the records.
34 The surrender of a license does not reduce or eliminate the licensee's
35 civil or criminal liability arising from acts or omissions occurring
36 prior to the surrender of the license, including any administrative
37 actions undertaken by the director or the director's designee to revoke
38 or suspend a license, to assess fines, to order payment of restitution,
39 or to exercise any other authority authorized under this chapter.

1 NEW SECTION. **Sec. 10.** CURRENCY EXCHANGE LICENSE REQUIRED. (1) A
2 person may not engage in the business of currency exchange or
3 advertise, solicit, or hold itself out as able to engage in currency
4 exchange for which the person receives revenue equal to or greater than
5 five percent of total revenues, unless the person is:

- 6 (a) Licensed to provide currency exchange under this chapter;
 - 7 (b) Licensed for money transmission under this chapter; or
 - 8 (c) An authorized delegate of a person licensed under this chapter.
- 9 (2) A license under this chapter is not transferable or assignable.

10 NEW SECTION. **Sec. 11.** APPLICATION FOR A CURRENCY EXCHANGE
11 LICENSE. (1) A person applying for a currency exchange license under
12 this chapter shall do so in a form and in a medium prescribed in rule
13 by the director. The application must state or contain:

14 (a) The legal name, business addresses, and residential address, if
15 applicable, of the applicant and any fictitious or trade name used by
16 the applicant in conducting its business, and the legal name,
17 residential and business addresses, date of birth, social security
18 number, employment history for the ten-year period preceding the
19 submission of the application; and upon request of the director,
20 fingerprints of the applicant's proposed responsible individual and
21 documentation that the proposed responsible individual is a citizen of
22 the United States or has obtained legal immigration status to work in
23 the United States;

24 (b) For the ten-year period preceding the submission of the
25 application, a list of any criminal convictions of the proposed
26 responsible individual of the applicant, any material litigation in
27 which the applicant has been involved, and any litigation involving the
28 proposed responsible individual relating to the provision of money
29 services;

30 (c) A description of any money services previously provided by the
31 applicant and the money services that the applicant seeks to provide in
32 this state;

33 (d) A list of the applicant's proposed authorized delegates and the
34 locations in this state where the applicant and its authorized
35 delegates propose to engage in currency exchange;

36 (e) A list of other states in which the applicant engages in
37 currency exchange or provides other money services and any license

1 revocations, suspensions, restrictions, or other disciplinary action
2 taken against the applicant in another state;

3 (f) A list of any license revocations, suspensions, restrictions,
4 or other disciplinary action taken against any money services business
5 involving the proposed responsible individual;

6 (g) Information concerning any bankruptcy or receivership
7 proceedings involving or affecting the applicant or the proposed
8 responsible individual;

9 (h) A sample form of contract for authorized delegates, if
10 applicable;

11 (i) A description of the source of money and credit to be used by
12 the applicant to provide currency exchange; and

13 (j) Any other information regarding the background, experience,
14 character, financial responsibility, and general fitness of the
15 applicant, the applicant's responsible individual, or authorized
16 delegates that the director may require in rule.

17 (2) If an applicant is a corporation, limited liability company,
18 partnership, or other entity, the applicant shall also provide:

19 (a) The date of the applicant's incorporation or formation and
20 state or country of incorporation or formation;

21 (b) If applicable, a certificate of good standing from the state or
22 country in which the applicant is incorporated or formed;

23 (c) A brief description of the structure or organization of the
24 applicant, including any parent or subsidiary of the applicant, and
25 whether any parent or subsidiary is publicly traded;

26 (d) The legal name, any fictitious or trade name, all business and
27 residential addresses, date of birth, social security number, and
28 employment history in the ten-year period preceding the submission of
29 the application for each executive officer, board director, or person
30 that has control of the applicant;

31 (e) If the applicant or its corporate parent is not a publicly
32 traded entity, the director may request the fingerprints for each
33 executive officer, board director, or person that has control of the
34 applicant; and

35 (f) A list of any criminal convictions, material litigation, and
36 any litigation related to the provision of money services, in which any
37 executive officer, board director, or person in control of the
38 applicant has been involved in the ten-year period preceding the
39 submission of the application.

1 (3) A nonrefundable application fee and an initial license fee, as
2 determined in rule by the director, must accompany an application for
3 a currency exchange license under this chapter. The license fee must
4 be refunded if the application is denied.

5 (4) The director may waive one or more requirements of subsection
6 (1) or (2) of this section or permit an applicant to submit other
7 information in lieu of the required information.

8 NEW SECTION. **Sec. 12.** ISSUANCE OF A CURRENCY EXCHANGE LICENSE.

9 (1) When an application for a currency exchange license is filed under
10 this chapter, the director or the director's designee shall investigate
11 the applicant's financial condition and responsibility, financial and
12 business experience, competence, character, and general fitness. The
13 director or the director's designee may conduct an on-site
14 investigation of the applicant, the cost of which must be paid by the
15 applicant as specified in section 34 of this act or rules adopted under
16 this chapter. The director shall issue a currency exchange license to
17 an applicant under this chapter if the director or the director's
18 designee finds that all of the following conditions have been
19 fulfilled:

20 (a) The applicant has complied with section 11 of this act;

21 (b) The financial and business experience, competence, character,
22 and general fitness of the applicant; and the competence, financial and
23 business experience, character, and general fitness of the executive
24 officers, proposed responsible individual, board directors, and persons
25 in control of the applicant indicate that it is in the interest of the
26 public to permit the applicant to engage in the business of providing
27 currency exchange; and

28 (c) Neither the applicant, nor any executive officer, nor person
29 who exercises control over the applicant, nor the proposed responsible
30 individual are listed on the specially designated nationals and blocked
31 persons list prepared by the United States department of treasury as a
32 potential threat to commit terrorist acts or to finance terrorist acts.

33 (2) The director may for good cause extend the application review
34 period.

35 (3) An applicant whose application is denied by the director under
36 this chapter may appeal under chapter 34.05 RCW.

37 (4) A currency exchange license issued under this chapter is valid
38 from the date of issuance and remains in effect with no fixed date of

1 expiration unless otherwise suspended or revoked by the director, or
2 unless the license expires for nonpayment of the annual license
3 assessment and any late fee, if applicable.

4 (5) A currency exchange licensee may surrender a license by
5 delivering the original license to the director along with a written
6 notice of surrender. The written notice of surrender must include
7 notice of where the records of the licensee will be stored and the
8 name, address, telephone number, and other contact information of a
9 responsible party who is authorized to provide access to the records.
10 The surrender of a license does not reduce or eliminate the licensee's
11 civil or criminal liability arising from acts or omissions occurring
12 prior to the surrender of the license, including any administrative
13 actions undertaken by the director or the director's designee to revoke
14 or suspend a license, to assess fines, to order payment of restitution,
15 or to exercise any other authority authorized under this chapter.

16 NEW SECTION. **Sec. 13.** ANNUAL LICENSE ASSESSMENT AND ANNUAL
17 REPORT. (1) A licensee shall pay an annual license assessment as
18 established in rule by the director no later than the annual license
19 assessment due date or, if the annual license assessment due date is
20 not a business day, on the next business day.

21 (2) A licensee shall submit an annual report with the annual
22 license assessment, in a form and in a medium prescribed by the
23 director in rule. The annual report must state or contain:

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

30 (b) A description of each material change, as defined in rule by
31 the director, to information submitted by the licensee in its original
32 license application which has not been previously reported to the
33 director on any required report;

34 (c) If the licensee is a money transmitter, a list of the
35 licensee's permissible investments and a certification that the
36 licensee continues to maintain permissible investments according to the
37 requirements set forth in sections 22 and 23 of this act;

1 (d) If the licensee is a money transmitter, proof that the licensee
2 continues to maintain adequate security as required by section 7 of
3 this act; and

4 (e) A list of the locations in this state where the licensee or an
5 authorized delegate of the licensee engages in or provides money
6 services.

7 (3) If a licensee does not file an annual report or pay its annual
8 license assessment by the annual license assessment due date or any
9 extension of time granted by the director or the director's designee,
10 the director or the director's designee shall send the licensee a
11 notice of suspension and assess the licensee a late fee not to exceed
12 twenty-five percent of the annual license assessment as established in
13 rule by the director. To prevent expiration of the license, the
14 licensee's annual report and payment of both the annual license
15 assessment and the late fee must arrive in the department's offices by
16 5:00 p.m. on the thirtieth day after the assessment due date or any
17 extension of time granted by the director, unless that date is not a
18 business day, in which case the licensee's annual report and payment of
19 both the annual license assessment and the late fee must arrive in the
20 department's offices by 5:00 p.m. on the next occurring business day.
21 If the licensee's annual report and payment of both the annual license
22 assessment and late fee do not arrive by such date, the expiration of
23 the licensee's license is effective at 5:00 p.m. on the thirtieth day
24 after the assessment due date, unless that date is not a business day,
25 in which case the expiration of the licensee's license is effective at
26 5:00 p.m. on the next occurring business day. The expiration of the
27 license may be lifted if, within twenty days after its effective date,
28 the licensee:

29 (a) Files the annual report and pays both the annual license
30 assessment and the late fee; and

31 (b) The licensee did not engage in or provide money services during
32 the period its license was expired.

33 (4) The director for good cause may grant an extension of the
34 assessment due date.

35 NEW SECTION. **Sec. 14.** RELATIONSHIP BETWEEN LICENSEE AND
36 AUTHORIZED DELEGATE. (1) In this section, "remit" means to make direct
37 payments of money to a licensee or its representative authorized to

1 receive money or to deposit money in a bank in an account specified by
2 the licensee.

3 (2) A contract between a licensee and an authorized delegate must
4 require the authorized delegate to operate in full compliance with this
5 chapter and the rules adopted under this chapter. The licensee shall
6 furnish to each authorized delegate policies and procedures to assist
7 each authorized delegate in preventing violations of this chapter and
8 the rules adopted under this chapter.

9 (3) Neither the licensee nor an authorized delegate may authorize
10 subdelegates.

11 (4) An authorized delegate shall remit all money owing to the
12 licensee in accordance with the terms of the contract between the
13 licensee and the authorized delegate.

14 (5) If a license is suspended or revoked or a licensee surrenders
15 its license, the director shall notify all authorized delegates of the
16 licensee whose names are filed with the director of the suspension,
17 revocation, or surrender and shall publish the name of the licensee.
18 An authorized delegate shall immediately cease to provide money
19 services as a delegate of the licensee upon receipt of notice, or after
20 publication is made, that the licensee's license has been suspended,
21 revoked, or surrendered.

22 (6) An authorized delegate may not provide money services other
23 than those allowed the licensee under its license. In addition, an
24 authorized delegate may not provide money services outside the scope of
25 activity permissible under the contract between the authorized delegate
26 and the licensee, except activity in which the authorized delegate is
27 authorized to engage under section 5 or 10 of this act.

28 NEW SECTION. **Sec. 15.** AUTHORITY TO CONDUCT EXAMINATIONS AND
29 INVESTIGATIONS. (1) For the purpose of discovering violations of this
30 chapter or rules adopted under this chapter, discovering unsafe and
31 unsound practices, or securing information lawfully required under this
32 chapter, the director may at any time, either personally or by
33 designee, investigate or examine the business and, wherever located,
34 the books, accounts, records, papers, documents, files, and other
35 information used in the business of every licensee or its authorized
36 delegates, and of every person who is engaged in the business of
37 providing money services, whether the person acts or claims to act
38 under or without the authority of this chapter. For these purposes,

1 the director or designated representative shall have free access to the
2 offices and places of business, books, accounts, papers, documents,
3 other information, records, files, safes, and vaults of all such
4 persons. The director or the director's designee may require the
5 attendance of and examine under oath all persons whose testimony may be
6 required about the business or the subject matter of any investigation,
7 examination, or hearing and may require such person to produce books,
8 accounts, papers, documents, records, files, and any other information
9 the director or designated person declares is relevant to the inquiry.
10 The director may require the production of original books, accounts,
11 papers, documents, records, files, and other information; may require
12 that such original books, accounts, papers, documents, records, files,
13 and other information be copied; or may make copies himself or herself
14 or by designee of such original books, accounts, papers, documents,
15 records, files, or other information. If a licensee or person does not
16 attend and testify, or does not produce the requested books, accounts,
17 papers, documents, records, files, or other information, then the
18 director or designated person may issue a subpoena or subpoena duces
19 tecum requiring attendance or compelling production of the books,
20 accounts, papers, documents, records, files, or other information.

21 (2) The licensee, applicant, or person subject to licensing under
22 this chapter shall pay the cost of examinations and investigations as
23 specified in section 34 of this act or rules adopted under this
24 chapter.

25 (3) Information obtained during an examination or investigation
26 under this chapter may be disclosed only as provided in section 21 of
27 this act.

28 NEW SECTION. **Sec. 16.** JOINT EXAMINATIONS. (1) The director may
29 conduct an on-site examination or investigation of the books, accounts,
30 records, papers, documents, files, and other information used in the
31 business of every licensee or its authorized delegates in conjunction
32 with representatives of other state agencies or agencies of another
33 state or of the federal government. The director may accept an
34 examination report or an investigation report of an agency of this
35 state or of another state or of the federal government.

36 (2) A joint examination or investigation, or an acceptance of an
37 examination or investigation report, does not preclude the director
38 from conducting an examination or investigation under this chapter. A

1 joint report or a report accepted under this section is an official
2 report of the director for all purposes.

3 NEW SECTION. **Sec. 17.** REPORTS. (1) A licensee shall file with
4 the director within thirty business days any material changes in
5 information provided in a licensee's application as prescribed in rule
6 by the director. If this information indicates that the licensee is no
7 longer in compliance with this chapter, the director may take any
8 action authorized under this chapter to ensure that the licensee
9 operates in compliance with this chapter.

10 (2) A licensee shall file with the director within forty-five days
11 after the end of each fiscal quarter a current list of all authorized
12 delegates and locations in this state where the licensee, or an
13 authorized delegate of the licensee, provides money services, including
14 mobile locations. The licensee shall state the name and street address
15 of each location and authorized delegate operating at the location.

16 (3) A licensee shall file a report with the director within one
17 business day after the licensee has reason to know of the occurrence of
18 any of the following events:

19 (a) The filing of a petition by or against the licensee, or any
20 authorized delegate of the licensee, under the United States Bankruptcy
21 Code (11 U.S.C. Sec. 101-110) for bankruptcy or reorganization;

22 (b) The filing of a petition by or against the licensee, or any
23 authorized delegate of the licensee, for receivership, the commencement
24 of any other judicial or administrative proceeding for its dissolution
25 or reorganization, or the making of a general assignment for the
26 benefit of its creditors;

27 (c) The commencement of a proceeding to revoke, suspend, restrict,
28 or condition its license, or otherwise discipline or sanction the
29 licensee, in a state or country in which the licensee engages in
30 business or is licensed;

31 (d) The cancellation or other impairment of the licensee's bond or
32 other security;

33 (e) A charge or conviction of the licensee or of an executive
34 officer, responsible individual, board director of the licensee, or
35 person in control of the licensee, for a felony; or

36 (f) A charge or conviction of an authorized delegate for a felony.

37 NEW SECTION. **Sec. 18.** CHANGE OF CONTROL. (1) A licensee shall:

1 (a) Provide the director with written notice of a proposed change
2 of control within fifteen days after learning of the proposed change of
3 control and at least thirty days prior to the proposed change of
4 control;

5 (b) Request approval of the change of control by submitting the
6 information required in rule by the director; and

7 (c) Submit, with the notice, a nonrefundable fee as prescribed in
8 rule by the director.

9 (2) After review of a request for approval under subsection (1) of
10 this section, the director may require the licensee to provide
11 additional information concerning the licensee's proposed persons in
12 control. The additional information must be limited to the same types
13 required of the licensee, or persons in control of the licensee, as
14 part of its original license application.

15 (3) The director shall approve a request for change of control
16 under subsection (1) of this section if, after investigation, the
17 director determines that the person, or group of persons, requesting
18 approval meets the criteria for licensing set forth in sections 9 and
19 12 of this act and that the public interest will not be jeopardized by
20 the change of control.

21 (4) Subsection (1) of this section does not apply to a public
22 offering of securities.

23 (5) Before filing a request for approval to acquire control of a
24 licensee, or person in control of a licensee, a person may request in
25 writing a determination from the director as to whether the person
26 would be considered a person in control of a licensee upon consummation
27 of a proposed transaction. If the director determines that the person
28 would not be a person in control of a licensee, the director shall
29 respond in writing to that effect and the proposed person and
30 transaction is not subject to the requirements of subsections (1)
31 through (3) of this section.

32 (6) The director may exempt by rule any person from the
33 requirements of subsection (1)(a) of this section, if it is in the
34 public interest to do so.

35 NEW SECTION. **Sec. 19.** RECORDS. (1) A licensee shall maintain the
36 following records for determining its compliance with this chapter for
37 at least five years:

1 (a) A general ledger posted at least monthly containing all assets,
2 liabilities, capital, income, and expense accounts;

3 (b) Bank statements and bank reconciliation records;

4 (c) A list of the last known names and addresses of all of the
5 licensee's authorized delegates;

6 (d) Copies of all currency transaction reports and suspicious
7 activity reports filed in compliance with section 20 of this act; and

8 (e) Any other records required in rule by the director.

9 (2) The items specified in subsection (1) of this section may be
10 maintained in any form of record that is readily accessible to the
11 director or the director's designee upon request.

12 (3) Records may be maintained outside this state if they are made
13 accessible to the director on seven business days' notice that is sent
14 in writing.

15 (4) All records maintained by the licensee are open to inspection
16 by the director or the director's designee.

17 NEW SECTION. **Sec. 20.** MONEY LAUNDERING REPORTS. (1) Every
18 licensee and its authorized delegates shall file with the director or
19 the director's designee all reports required by federal currency
20 reporting, recordkeeping, and suspicious transaction reporting
21 requirements as set forth in 31 U.S.C. Sec. 5311, 31 C.F.R. Sec. 103
22 (2000), and other federal and state laws pertaining to money
23 laundering. Every licensee and its authorized delegates shall maintain
24 copies of these reports in its records in compliance with section 19 of
25 this act.

26 (2) The timely filing of a complete and accurate report required
27 under subsection (1) of this section with the appropriate federal
28 agency is compliance with the requirements of subsection (1) of this
29 section, unless the director notifies the licensee that reports of this
30 type are not being regularly and comprehensively transmitted by the
31 federal agency.

32 NEW SECTION. **Sec. 21.** CONFIDENTIALITY. (1) Except as otherwise
33 provided in subsection (2) of this section, all information or reports
34 obtained by the director from an applicant, licensee, or authorized
35 delegate and all information contained in, or related to, examination,
36 investigation, operating, or condition reports prepared by, on behalf
37 of, or for the use of the director, or financial statements, balance

1 sheets, or authorized delegate information, are confidential and are
2 not subject to disclosure under chapter 42.17 RCW.

3 (2) The director may disclose information not otherwise subject to
4 disclosure under subsection (1) of this section to representatives of
5 state or federal agencies who agree in writing to maintain the
6 confidentiality of the information; or if the director finds that the
7 release is reasonably necessary for the protection of the public and in
8 the interests of justice.

9 (3) This section does not prohibit the director from disclosing to
10 the public a list of persons licensed under this chapter or the
11 aggregated financial data concerning those licensees.

12 NEW SECTION. **Sec. 22.** MAINTENANCE OF PERMISSIBLE INVESTMENTS.

13 (1) A money transmitter licensee shall maintain at all times
14 permissible investments that have a market value computed in accordance
15 with generally accepted accounting principles of not less than the
16 aggregate amount of all outstanding money transmission by the licensee
17 or its authorized delegates.

18 (2) The director, with respect to any money transmitter licensee,
19 may limit the extent to which a type of investment within a class of
20 permissible investments may be considered a permissible investment,
21 except for money, time deposits, savings deposits, demand deposits, and
22 certificates of deposit issued by a federally insured financial
23 institution. The director may prescribe in rule, or by order allow,
24 other types of investments that the director determines to have a
25 safety substantially equivalent to other permissible investments.

26 NEW SECTION. **Sec. 23.** TYPES OF PERMISSIBLE INVESTMENTS. (1)

27 Except to the extent otherwise limited by the director under section 22
28 of this act, the following investments are permissible for a money
29 transmitter licensee under section 22 of this act:

30 (a) Cash, time deposits, savings deposits, demand deposits, a
31 certificate of deposit, or senior debt obligation of an insured
32 depository institution as defined in section 3 of the federal Deposit
33 Insurance Act (12 U.S.C. Sec. 1813) or as defined under the federal
34 Credit Union Act (12 U.S.C. Sec. 1781);

35 (b) Banker's acceptance or bill of exchange that is eligible for
36 purchase upon endorsement by a member bank of the federal reserve
37 system and is eligible for purchase by a federal reserve bank;

1 (c) An investment bearing a rating of one of the three highest
2 grades as defined by a nationally recognized organization that rates
3 securities;

4 (d) An investment security that is an obligation of the United
5 States or a department, agency, or instrumentality thereof; an
6 investment in an obligation that is guaranteed fully as to principal
7 and interest by the United States; or an investment in an obligation of
8 a state or a governmental subdivision, agency, or instrumentality
9 thereof;

10 (e) Receivables that are payable to a licensee from its authorized
11 delegates, in the ordinary course of business, pursuant to contracts
12 which are not past due or doubtful of collection, if the aggregate
13 amount of receivables under this subsection (1)(e) does not exceed
14 twenty percent of the total permissible investments of a licensee and
15 the licensee does not hold, at one time, receivables under this
16 subsection (1)(e) in any one person aggregating more than ten percent
17 of the licensee's total permissible investments; and

18 (f) A share or a certificate issued by an open-end management
19 investment company that is registered with the United States securities
20 and exchange commission under the Investment Companies Act of 1940 (15
21 U.S.C. Sec. 80(a)(1) through (64), and whose portfolio is restricted by
22 the management company's investment policy to investments specified in
23 (a) through (d) of this subsection.

24 (2) The following investments are permissible under section 22 of
25 this act, but only to the extent specified as follows:

26 (a) An interest-bearing bill, note, bond, or debenture of a person
27 whose equity shares are traded on a national securities exchange or on
28 a national over-the-counter market, if the aggregate of investments
29 under this subsection (2)(a) does not exceed twenty percent of the
30 total permissible investments of a licensee and the licensee does not,
31 at one time, hold investments under this subsection (2)(a) in any one
32 person aggregating more than ten percent of the licensee's total
33 permissible investments;

34 (b) A share of a person traded on a national securities exchange or
35 a national over-the-counter market or a share or a certificate issued
36 by an open-end management investment company that is registered with
37 the United States securities and exchange commission under the
38 Investment Companies Act of 1940 (15 U.S.C. Sec. 80(a)(1) through (64),
39 and whose portfolio is restricted by the management company's

1 investment policy to shares of a person traded on a national securities
2 exchange or a national over-the-counter market, if the aggregate of
3 investments under this subsection (2)(b) does not exceed twenty percent
4 of the total permissible investments of a licensee and the licensee
5 does not, at one time, hold investments under this subsection (2)(b) in
6 any one person aggregating more than ten percent of the licensee's
7 total permissible investments;

8 (c) A demand-borrowing agreement made to a corporation or a
9 subsidiary of a corporation whose securities are traded on a national
10 securities exchange, if the aggregate of the amount of principal and
11 interest outstanding under demand-borrowing agreements under this
12 subsection (2)(c) does not exceed twenty percent of the total
13 permissible investments of a licensee and the licensee does not, at one
14 time, hold principal and interest outstanding under demand-borrowing
15 agreements under this subsection (2)(c) with any one person aggregating
16 more than ten percent of the licensee's total permissible investments;
17 and

18 (d) Any other investment the director designates, to the extent
19 specified in rule by the director.

20 (3) The aggregate of investments under subsection (2) of this
21 section may not exceed fifty percent of the total permissible
22 investments of a licensee.

23 NEW SECTION. **Sec. 24.** ADMINISTRATIVE PROCEEDINGS. All
24 administrative proceedings under this chapter must be conducted in
25 accordance with the administrative procedure act, chapter 34.05 RCW.
26 Any licensee or authorized delegate subject to a statement of charges
27 and order of intent from the director shall be provided with an
28 opportunity for a hearing as provided for in the administrative
29 procedure act. Unless the person subject to the order appears in
30 person or is represented by counsel at the hearing, the person has
31 consented to issuance of the order. If after a hearing, the director
32 finds by a preponderance of the evidence that grounds for sanctions
33 under this chapter exist, then the director may impose any sanctions
34 authorized by this chapter in a final order. As provided for in
35 section 28 of this act, a temporary order to cease and desist is
36 effective upon service upon the licensee or authorized delegate, and
37 remains effective pending a hearing to determine if the order shall
38 become permanent.

1 NEW SECTION. **Sec. 25.** SUSPENSION, REVOCATION, AND RECEIVERSHIP.

2 (1) The director may issue an order to suspend, revoke, or condition a
3 license, place a licensee in receivership, revoke the designation of an
4 authorized delegate, compel payment of restitution by a licensee to
5 damaged parties, require affirmative actions as are necessary by a
6 licensee to comply with this chapter or rules adopted under this
7 chapter, or remove from office or prohibit from participation in the
8 affairs of any authorized delegate or any licensee, or both, any
9 responsible individual, executive officer, person in control, or
10 licensee of the licensee, if:

11 (a) The licensee violates this chapter or a rule adopted or an
12 order issued under this chapter or is convicted of a violation of a
13 state or federal money laundering or terrorism statute;

14 (b) The licensee does not cooperate with an examination,
15 investigation, or subpoena lawfully issued by the director or the
16 director's designee;

17 (c) The licensee engages in fraud, intentional misrepresentation,
18 or gross negligence;

19 (d) An authorized delegate is convicted of a violation of a state
20 or federal money laundering statute, or violates this chapter or a rule
21 adopted or an order issued under this chapter as a result of the
22 licensee's willful misconduct or deliberate avoidance of knowledge;

23 (e) The financial condition and responsibility, competence,
24 experience, character, or general fitness of the licensee, authorized
25 delegate, person in control of a licensee, or responsible individual of
26 the licensee or authorized delegate indicates that it is not in the
27 public interest to permit the person to provide money services;

28 (f) The licensee engages in an unsafe or unsound practice, or an
29 unfair and deceptive act or practice;

30 (g) The licensee is insolvent, fails to maintain the required net
31 worth, suspends payment of its obligations, or makes a general
32 assignment for the benefit of its creditors;

33 (h) The licensee does not remove an authorized delegate after the
34 director issues and serves upon the licensee a final order including a
35 finding that the authorized delegate has violated this chapter; or

36 (i) The licensee, its responsible individual, or any of its
37 executive officers or other persons in control of the licensee are
38 listed or become listed on the specially designated nationals and
39 blocked persons list prepared by the United States department of the

1 treasury as a potential threat to commit terrorist acts or to finance
2 terrorist acts.

3 (2) In determining whether a licensee or other person subject to
4 this chapter is engaging in an unsafe or unsound practice, the director
5 may consider the size and condition of the licensee's money
6 transmission services, the magnitude of the loss or potential loss to
7 consumers or others, the gravity of the violation of this chapter, any
8 action against the licensee by another state or the federal government,
9 and the previous conduct of the person involved.

10 NEW SECTION. Sec. 26. SUSPENSION AND REVOCATION OF AUTHORIZED
11 DELEGATES. (1) The director may issue an order to suspend, revoke, or
12 condition the designation of an authorized delegate, impose civil
13 penalties, require payment of restitution to damaged parties, require
14 affirmative actions as are necessary to comply with this chapter or the
15 rules adopted under this chapter, or remove from office or prohibit
16 from participation in the affairs of the authorized delegate or
17 licensee, or both, any executive officer, person in control, or
18 employee of the authorized delegate if the director finds that:

19 (a) The authorized delegate violated this chapter or a rule adopted
20 or an order issued under this chapter;

21 (b) The authorized delegate does not cooperate with an examination,
22 investigation, or subpoena lawfully issued by the director or the
23 director's designee;

24 (c) The authorized delegate engaged in fraud, intentional
25 misrepresentation, or gross negligence;

26 (d) The authorized delegate is convicted of a violation of a state
27 or federal money laundering or terrorism statute;

28 (e) The competence, experience, character, or general fitness of
29 the authorized delegate or a person in control of the authorized
30 delegate indicates that it is not in the public interest to permit the
31 authorized delegate to provide money services;

32 (f) The authorized delegate engaged in or is engaging in an unsafe
33 or unsound practice, or unfair and deceptive act or practice; or

34 (g) The authorized delegate, or any of its executive officers or
35 other persons in control of the authorized delegate, are listed or
36 become listed on the specially designated nationals and blocked persons
37 list prepared by the United States department of the treasury as a
38 potential threat to commit terrorist acts or to finance terrorist acts.

1 (2) In determining whether an authorized delegate is engaging in an
2 unsafe or unsound practice, the director may consider the size and
3 condition of the authorized delegate's provision of money services, the
4 magnitude of the loss or potential loss to consumers or others, the
5 gravity of the violation of this chapter or a rule adopted or order
6 issued under this chapter, any action against the authorized delegate
7 taken by another state or the federal government, and the previous
8 conduct of the authorized delegate.

9 NEW SECTION. **Sec. 27.** UNLICENSED PERSONS. (1) If the director
10 has reason to believe that a person has violated or is violating
11 section 5 or 10 of this act, the director or the director's designee
12 may conduct an examination or investigation as authorized under section
13 15 of this act.

14 (2) If as a result of such investigation or examination, the
15 director finds that a person has violated section 5 or 10 of this act,
16 the director may issue a temporary cease and desist order as authorized
17 under section 28 of this act.

18 (3) If as a result of such an investigation or examination, the
19 director finds that a person has violated section 5 or 10 of this act,
20 the director may issue an order to prohibit the person from continuing
21 to engage in providing money services, to compel the person to pay
22 restitution to damaged parties, to impose civil money penalties on the
23 person, and to prohibit from participation in the affairs of any
24 licensee or authorized delegate, or both, any executive officer, person
25 in control, or employee of the person.

26 (4) The director may petition the superior court for the issuance
27 of a temporary restraining order under the rules of civil procedure.

28 NEW SECTION. **Sec. 28.** TEMPORARY ORDERS TO CEASE AND DESIST. (1)
29 If the director determines that a violation of this chapter or of a
30 rule adopted or an order issued under this chapter by a licensee,
31 authorized delegate, or other person subject to this chapter is likely
32 to cause immediate and irreparable harm to the licensee, its customers,
33 or the public as a result of the violation, or cause insolvency or
34 significant dissipation of the assets of the licensee, the director may
35 issue a temporary order to cease and desist requiring the licensee,
36 authorized delegate, or other person subject to this chapter to cease
37 and desist from conducting business in this state or to cease and

1 desist from the violation or undertake affirmative actions as are
2 necessary to comply with this chapter, any rule adopted under this
3 chapter, or order issued by the director under this chapter. The order
4 is effective upon service upon the licensee, authorized delegate, or
5 other person subject to this chapter.

6 (2) A temporary order to cease and desist remains effective and
7 enforceable pending the completion of an administrative proceeding
8 under chapter 34.05 RCW. If, after a hearing, the director finds that
9 by a preponderance of the evidence, all or any part of the order is
10 supported by the facts, the director may make the temporary order to
11 cease and desist permanent under chapter 34.05 RCW.

12 (3) A licensee, an authorized delegate, or other person subject to
13 this chapter that is served with a temporary order to cease and desist
14 may petition the superior court for a judicial order setting aside,
15 limiting, or suspending the enforcement, operation, or effectiveness of
16 the order pending the completion of an administrative proceeding under
17 chapter 34.05 RCW.

18 NEW SECTION. **Sec. 29.** CONSENT ORDERS. The director may enter
19 into a consent order at any time with a person to resolve a matter
20 arising under this chapter or a rule adopted or order issued under this
21 chapter. A consent order must be signed by the person to whom it is
22 issued or by the person's authorized representative, and must indicate
23 agreement with the terms contained in the order.

24 NEW SECTION. **Sec. 30.** VIOLATIONS--LIABILITY. (1) A licensee is
25 liable for any conduct violating this chapter or rules adopted under
26 this chapter committed by employees of the licensee.

27 (2) A licensee that commits willful misconduct in its supervision
28 of its authorized delegate or willfully avoids knowledge of its
29 authorized delegate's business activities may be subjected to
30 administrative sanctions for any violations of this chapter or rules
31 adopted under this chapter by the licensee's authorized delegates.

32 (3) The responsible individual is responsible under the license and
33 may be subjected to administrative sanctions for any violations of this
34 chapter or rules adopted under this chapter committed by the licensee
35 or, if the responsible individual commits willful misconduct in
36 supervising an authorized delegate or willfully avoids knowledge of an

1 authorized delegate's business activities, violations committed by the
2 licensee's authorized delegates.

3 NEW SECTION. **Sec. 31.** CIVIL PENALTIES. The director may assess
4 a civil penalty against a licensee, responsible individual, authorized
5 delegate, or other person that violates this chapter or a rule adopted
6 or an order issued under this chapter in an amount not to exceed one
7 hundred dollars per day for each day the violation is outstanding, plus
8 this state's costs and expenses for the investigation and prosecution
9 of the matter, including reasonable attorneys' fees.

10 NEW SECTION. **Sec. 32.** CRIMINAL PENALTIES. (1) A person that
11 intentionally makes a false statement, misrepresentation, or false
12 certification in a record filed or required to be maintained under this
13 chapter or that intentionally makes a false entry or omits a material
14 entry in that record is guilty of a class C felony under chapter 9A.20
15 RCW.

16 (2) A person that knowingly engages in an activity for which a
17 license is required under this chapter without being licensed under
18 this chapter and who receives more than five hundred dollars in
19 compensation within a thirty-day period from this activity is guilty of
20 a gross misdemeanor under chapter 9A.20 RCW.

21 (3) A person that knowingly engages in an activity for which a
22 license is required under this chapter without being licensed under
23 this chapter and who receives no more than five hundred dollars in
24 compensation within a thirty-day period from this activity is guilty of
25 a misdemeanor under chapter 9A.20 RCW.

26 NEW SECTION. **Sec. 33.** ADMINISTRATION AND RULE-MAKING POWERS. The
27 director has the power and broad administrative discretion to
28 administer and interpret this chapter to fulfill the intent of the
29 legislature as expressed in section 2 of this act. In accordance with
30 chapter 34.05 RCW, the director may issue rules under this chapter to
31 govern the activities of licensees and other persons subject to this
32 chapter.

33 NEW SECTION. **Sec. 34.** FEES. (1) The director shall establish
34 fees by rule sufficient to cover the costs of administering this

1 chapter. The director may establish different fees for each type of
2 license authorized under this chapter. These fees may include:

3 (a) An annual license assessment specified in rule by the director
4 paid by each licensee on or before the annual license assessment due
5 date;

6 (b) A late fee for late payment of the annual license assessment as
7 specified in rule by the director;

8 (c) An hourly examination or investigation fee to cover the costs
9 of any examination or investigation of the books and records of a
10 licensee or other person subject to this chapter;

11 (d) A nonrefundable application fee to cover the costs of
12 processing license applications made to the director under this
13 chapter;

14 (e) An initial license fee to cover the period from the date of
15 licensure to the end of the calendar year in which the license is
16 initially granted; and

17 (f) A transaction fee or set of transaction fees to cover the
18 administrative costs associated with processing changes in control,
19 changes of address, and other administrative changes as specified in
20 rule by the director.

21 (2) The director shall ensure that when an examination or
22 investigation, or any part of the examination or investigation, of any
23 licensee applicant or person subject to licensing under this chapter,
24 requires travel and services outside this state by the director or
25 designee, the licensee applicant or person subject to licensing under
26 this chapter that is the subject of the examination or investigation
27 shall pay the actual travel expenses incurred by the director or
28 designee conducting the examination or investigation.

29 (3) All moneys, fees, and penalties collected under this chapter
30 shall be deposited into the financial services regulation account.

31 NEW SECTION. **Sec. 35.** MONEY TRANSMITTER DELIVERY, RECEIPTS, AND
32 REFUNDS. (1) Every money transmitter licensee and its authorized
33 delegates shall transmit the monetary equivalent of all money or
34 equivalent value received from a customer for transmission, net of any
35 fees, or issue instructions committing the money or its monetary
36 equivalent, to the person designated by the customer within ten
37 business days after receiving the money or equivalent value, unless
38 otherwise ordered by the customer or unless the licensee or its

1 authorized delegate has reason to believe that a crime has occurred, is
2 occurring, or may occur as a result of transmitting the money. For
3 purposes of this subsection, money is considered to have been
4 transmitted when it is available to the person designated by the
5 customer and a reasonable effort has been made to inform this
6 designated person that the money is available, whether or not the
7 designated person has taken possession of the money. As used in this
8 subsection, "monetary equivalent," when used in connection with a money
9 transmission in which the customer provides the licensee or its
10 authorized delegate with the money of one government, and the
11 designated recipient is to receive the money of another government,
12 means the amount of money, in the currency of the government that the
13 designated recipient is to receive, as converted at the retail exchange
14 rate offered by the licensee or its authorized delegate to the customer
15 in connection with the transaction.

16 (2) Every money transmitter licensee and its authorized delegates
17 shall provide a receipt to the customer that clearly states the amount
18 of money presented for transmission, the total of any fees not
19 including any earnings from currency exchange, the net amount of United
20 States money transmitted. As used in this section, "fees" does not
21 include revenue that a licensee or its authorized delegate generates,
22 in connection with a money transmission, in the conversion of the money
23 of one government into the money of another government.

24 (3) Every money transmitter licensee and its authorized delegates
25 shall refund to the customer all moneys received for transmittal within
26 ten days of receipt of a written request for a refund unless any of the
27 following occurs:

28 (a) The moneys have been transmitted and delivered to the person
29 designated by the customer prior to receipt of the written request for
30 a refund;

31 (b) Instructions have been given committing an equivalent amount of
32 money to the person designated by the customer prior to receipt of a
33 written request for a refund;

34 (c) The licensee or its authorized delegate has reason to believe
35 that a crime has occurred, is occurring, or may potentially occur as a
36 result of transmitting the money as requested by the customer or
37 refunding the money as requested by the customer; or

38 (d) The licensee is otherwise barred by law from making a refund.

1 NEW SECTION. **Sec. 36.** PROHIBITED PRACTICES. It is a violation of
2 this chapter for any licensee, executive officer, responsible
3 individual, or other person subject to this chapter in connection with
4 the provision of money services to:

5 (1) Directly or indirectly employ any scheme, device, or artifice
6 to defraud or mislead any person;

7 (2) Directly or indirectly engage in any unfair or deceptive act or
8 practice toward any person;

9 (3) Directly or indirectly obtain property by fraud or
10 misrepresentation;

11 (4) Knowingly make, publish, or disseminate any false, deceptive,
12 or misleading information in the provision of money services;

13 (5) Knowingly receive or take possession for personal use of any
14 property of any money services business, other than in payment for
15 services rendered, and with intent to defraud, omit to make, or cause
16 or direct to omit to make, a full and true entry thereof in the books
17 and accounts of the business;

18 (6) Make or concur in making any false entry, or omit or concur in
19 omitting any material entry, in the books or accounts of the business;

20 (7) Knowingly make or publish to the director or director's
21 designee, or concur in making or publishing to the director or
22 director's designee any written report, exhibit, or statement of its
23 affairs or pecuniary condition containing any material statement which
24 is false, or omit or concur in omitting any statement required by law
25 to be contained therein; or

26 (8) Fail to make any report or statement lawfully required by the
27 director or other public official.

28 NEW SECTION. **Sec. 37.** EFFECTIVE DATE. This act takes effect
29 October 1, 2002.

30 NEW SECTION. **Sec. 38.** IMPLEMENTATION. The director or the
31 director's designee may take such steps as are necessary to ensure that
32 this act is implemented on its effective date. In particular, the
33 director or the director's designee shall conduct outreach to small
34 businesses and immigrant communities to enhance awareness of and
35 compliance with state and federal laws governing money transmission and
36 currency exchange, and to provide technical assistance in applying for

1 a license under this chapter and understanding the requirements of this
2 chapter.

3 NEW SECTION. **Sec. 39.** UNIFORMITY OF APPLICATION AND CONSTRUCTION.
4 In applying and construing this chapter, consideration must be given to
5 the need to promote uniformity of the law with respect to its subject
6 matter among states that enact it.

7 NEW SECTION. **Sec. 40.** SEVERABILITY CLAUSE. If any provision of
8 this act or its application to any person or circumstance is held
9 invalid, the remainder of the act or the application of the provision
10 to other persons or circumstances is not affected.

11 NEW SECTION. **Sec. 41.** CAPTIONS NOT LAW. Captions used in this
12 chapter are not any part of the law.

13 NEW SECTION. **Sec. 42.** Sections 1 through 41 of this act
14 constitute a new chapter in Title 19 RCW.

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