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SENATE BILL 5465

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State of Washington

58th Legislature

2003 Regular Session

**By** Senators Benton, Prentice, Winsley, Jacobsen, Eide, Kohl-Welles, Hale, Fairley, Kline, Poulsen, Finkbeiner, Keiser, Kastama, Shin, Schmidt, Thibaudeau, Parlette, Haugen, Horn, Reardon, McAuliffe, Esser, Mulliken, Honeyford, Sheahan, Zarelli and T. Sheldon; by request of Department of Financial Institutions

Read first time 01/27/2003. Referred to Committee on Financial Services, Insurance & Housing.

1 AN ACT Relating to licensing and regulating money transmission and  
2 currency exchange; 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 criminal purposes, to promote confidence in the state's financial  
12 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.

16 (1) "Affiliate" means any person who directly or indirectly through

1 one or more intermediaries, controls, is controlled by, or is under  
2 common control with, another person.

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

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

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

15 (5) "Control" means:

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

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

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

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

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

34 (b) A person who provides currency exchange services for a person  
35 acting primarily for a business, commercial, agricultural, or  
36 investment purpose when the currency exchange is incidental to the  
37 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 connection services to the internet,  
32 telecommunications services, or network 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 sold by the issuer or its  
9 affiliates.

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

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

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

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

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

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

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

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

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

1 (9) An operator of a payment system only to the extent that it  
2 provides processing, clearing, or settlement services, between or among  
3 persons who are all excluded by this section, in connection with wire  
4 transfers, credit card transactions, debit card transactions, stored-  
5 value transactions, automated clearinghouse transfers, or similar funds  
6 transfers;

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

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

16 (12) The issuance, sale, use, redemption, or exchange of stored  
17 value or of payment instruments; or

18 (13) An attorney, to the extent that the attorney is lawfully  
19 authorized to practice law in this state and to the extent that the  
20 attorney engages in money transmission or currency exchange as an  
21 ancillary service to the practice of law.

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

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

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

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

30 NEWSECTION. **Sec. 6.** APPLICATIONFORAMONEYTRANSMITTERLICENSE. (1) A person  
31 chapter shall do so in a form and in a medium prescribed in rule by the  
32 director. The application must state or contain:

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

1 (b) The legal name, residential and business addresses, date of  
2 birth, social security number, employment history for the five-year  
3 period preceding the submission of the application of the applicant's  
4 proposed responsible individual, and documentation that the proposed  
5 responsible individual is a citizen of the United States or has  
6 obtained legal immigration status to work in the United States. In  
7 addition, the applicant shall provide the fingerprints of the proposed  
8 responsible individual upon the request of the director;

9 (c) For the ten-year period preceding submission of the  
10 application, a list of any criminal convictions of the proposed  
11 responsible individual of the applicant, any material litigation in  
12 which the applicant has been involved, and any litigation involving the  
13 proposed responsible individual relating to the provision of money  
14 services;

15 (d) A description of any money services previously provided by the  
16 applicant and the money services that the applicant seeks to provide in  
17 this state;

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

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

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

28 (h) Information concerning any bankruptcy or receivership  
29 proceedings involving or affecting the applicant or the proposed  
30 responsible individual;

31 (i) A sample form of contract for authorized delegates, if  
32 applicable;

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

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

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

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

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

7 (c) A brief description of the structure or organization of the  
8 applicant, including any parent or subsidiary of the applicant, and  
9 whether any parent or subsidiary is publicly traded;

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

15 (e) If the applicant or its corporate parent is not a publicly  
16 traded entity, the director may request the fingerprints of each  
17 executive officer, board director, or person that has control of the  
18 applicant;

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

24 (g) A copy of the applicant's audited financial statements for the  
25 most recent fiscal year or, if the applicant is a wholly owned  
26 subsidiary of another corporation, the most recent audited consolidated  
27 annual financial statement of the parent corporation or the applicant's  
28 most recent audited consolidated annual financial statement, and in  
29 each case, if available, for the two-year period preceding the  
30 submission of the application;

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

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

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



1 (i) A corporation publicly traded in the United States, a copy of  
2 audited financial statements for the parent corporation for the most  
3 recent fiscal year or a copy of the parent corporation's most recent  
4 report filed under section 13 of the federal Securities Exchange Act of  
5 1934 (15 U.S.C. Sec. 78m); or

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

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

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

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

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

22 NEW SECTION. **Sec. 7. SECURITY.** (1) Each money transmitter  
23 licensee shall maintain a surety bond, or other similar security  
24 acceptable to the director, in the amount of at least ten thousand  
25 dollars, and not exceeding fifty thousand dollars, as defined in rule  
26 by the director, plus ten thousand dollars per location, including  
27 locations of authorized delegates, not exceeding a total addition of  
28 five hundred thousand dollars.

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

36 (3) The surety bond shall be continuous and may be canceled by the  
37 surety upon the surety giving written notice to the director of its

1 intent to cancel the bond. The cancellation is effective thirty days  
2 after the notice of cancellation is received by the director or the  
3 director's designee. Whether or not the bond is renewed, continued,  
4 replaced, or modified, including increases or decreases in the penal  
5 sum, it is considered one continuous obligation, and the surety upon  
6 the bond is not liable in an aggregate or cumulative amount exceeding  
7 the penal sum set forth on the face of the bond. In no event may the  
8 penal sum, or any portion thereof, at two or more points in time, be  
9 added together in determining the surety's liability.

10 (4) A surety bond or other security must cover claims for at least  
11 five years after the date of a money transmitter licensee's violation  
12 of this chapter, or at least five years after the date the money  
13 transmitter licensee ceases to provide money services in this state,  
14 whichever is longer. However, the director may permit the amount of  
15 the surety bond or other security to be reduced or eliminated before  
16 the expiration of that time to the extent the amount of the licensee's  
17 obligations outstanding in this state are reduced.

18 (5) In the event that a money transmitter licensee does not  
19 maintain a surety bond or other form of security satisfactory to the  
20 director in the amount required under subsection (1) of this section,  
21 the director may issue a temporary cease and desist order under section  
22 28 of this act.

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

29 NEW SECTION. **Sec. 8.** NET WORTH FOR MONEY TRANSMITTER. A money  
30 transmitter licensed under this chapter shall maintain a net worth,  
31 determined in accordance with generally accepted accounting principles,  
32 as determined in rule by the director. The director shall require a  
33 net worth of at least ten thousand dollars and not more than fifty  
34 thousand dollars. In the event that a licensee's net worth, as  
35 determined in accordance with generally accepted accounting principles,  
36 falls below the amount required in rule, the director or the director's

1 designee may initiate action under sections 25 and 28 of this act. The  
2 licensee may request a hearing on such an action under chapter 34.05  
3 RCW.

4 NEW SECTION. **Sec. 9.** ISSUANCE OF MONEY TRANSMITTER LICENSE. (1)

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

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

18 (b) The financial condition and responsibility, financial and  
19 business experience, competence, character, and general fitness of the  
20 applicant; and the competence, financial and business experience,  
21 character, and general fitness of the executive officers, proposed  
22 responsible individual, board directors, and persons in control of the  
23 applicant; indicate that it is in the interest of the public to permit  
24 the applicant to engage in the business of providing money transmission  
25 services; and

26 (c) Neither the applicant, nor any executive officer, nor person  
27 who exercises control over the applicant, nor the proposed responsible  
28 individual is listed on the specially designated nationals and blocked  
29 persons list prepared by the United States department of the treasury  
30 or department of state under Presidential Executive Order No. 13224.

31 (2) The director may for good cause extend the application review  
32 period.

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

35 (4) A money transmitter license issued under this chapter is valid  
36 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 money transmitter 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. 10.** CURRENCY EXCHANGE LICENSE REQUIRED. (1) A  
17 person may not engage in the business of currency exchange or  
18 advertise, solicit, or hold itself out as able to engage in currency  
19 exchange for which the person receives revenue equal to or greater than  
20 five percent of total revenues, unless the person is:

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

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

29 (a) The legal name, business addresses, and residential address, if  
30 applicable, of the applicant and any fictitious or trade name used by  
31 the applicant in conducting its business, and the legal name,  
32 residential and business addresses, date of birth, social security  
33 number, employment history for the five-year period preceding the  
34 submission of the application; and upon request of the director,  
35 fingerprints of the applicant's proposed responsible individual and

1 documentation that the proposed responsible individual is a citizen of  
2 the United States or has obtained legal immigration status to work in  
3 the United States;

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

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

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

16 (e) A list of other states in which the applicant engages in  
17 currency exchange or provides other money services and any license  
18 revocations, suspensions, restrictions, or other disciplinary action  
19 taken against the applicant in another state;

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

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

26 (h) A sample form of contract for authorized delegates, if  
27 applicable;

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

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

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

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

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

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

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

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

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

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

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

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

28 (1) When an application for a currency exchange license is filed under  
29 this chapter, the director or the director's designee shall investigate  
30 the 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 currency exchange 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 section 11 of this act;

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

11 (c) Neither the applicant, nor any executive officer, nor person  
12 who exercises control over the applicant, nor the proposed responsible  
13 individual are listed on the specially designated nationals and blocked  
14 persons list prepared by the United States department of treasury or  
15 department of state under Presidential Executive Order No. 13224.

16 (2) The director may for good cause extend the application review  
17 period.

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

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

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

1        NEW SECTION.    **Sec. 13.**    ANNUAL LICENSE ASSESSMENT AND ANNUAL

2    REPORT.    (1) A licensee shall pay an annual license assessment as  
3    established in rule by the director no later than the annual license  
4    assessment due date or, if the annual license assessment due date is  
5    not a business day, on the next business day.

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

9        (a) If the licensee is a money transmitter, a copy of the  
10    licensee's most recent audited annual financial statement or, if the  
11    licensee is a wholly owned subsidiary of another corporation, the most  
12    recent audited consolidated annual financial statement of the parent  
13    corporation or the licensee's most recent audited consolidated annual  
14    financial statement;

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

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

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

26        (e) A list of the locations in this state where the licensee or an  
27    authorized delegate of the licensee engages in or provides money  
28    services.

29        (3) If a licensee does not file an annual report or pay its annual  
30    license assessment by the annual license assessment due date, the  
31    director or the director's designee shall send the licensee a notice of  
32    suspension and assess the licensee a late fee not to exceed twenty-five  
33    percent of the annual license assessment as established in rule by the  
34    director. The licensee's annual report and payment of both the annual  
35    license assessment and the late fee must arrive in the department's  
36    offices by 5:00 p.m. on the thirtieth day after the assessment due date  
37    or any extension of time granted by the director, unless that date is  
38    not a business day, in which case the licensee's annual report and



1 payment of both the annual license assessment and the late fee must  
2 arrive in the department's offices by 5:00 p.m. on the next occurring  
3 business day. If the licensee's annual report and payment of both the  
4 annual license assessment and late fee do not arrive by such date, the  
5 expiration of the licensee's license is effective at 5:00 p.m. on the  
6 thirtieth day after the assessment due date, unless that date is not a  
7 business day, in which case the expiration of the licensee's license is  
8 effective at 5:00 p.m. on the next occurring business day. The  
9 director, or the director's designee, may reinstate the license if,  
10 within twenty days after its effective date, the licensee:

11 (a) Files the annual report and pays both the annual license  
12 assessment and the late fee; and

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

15 NEW SECTION. **Sec. 14.** RELATIONSHIP BETWEEN LICENSEE AND  
16 AUTHORIZED DELEGATE. (1) In this section, "remit" means to make direct  
17 payments of money to a licensee or its representative authorized to  
18 receive money or to deposit money in a bank in an account specified by  
19 the licensee.

20 (2) A contract between a licensee and an authorized delegate must  
21 require the authorized delegate to operate in full compliance with this  
22 chapter and the rules adopted under this chapter.

23 (3) Neither the licensee nor an authorized delegate may authorize  
24 subdelegates.

25 (4) An authorized delegate shall remit all money owing to the  
26 licensee in accordance with the terms of the contract between the  
27 licensee and the authorized delegate.

28 (5) If a license is suspended or revoked or a licensee surrenders  
29 its license, the director shall notify all authorized delegates of the  
30 licensee whose names are filed with the director of the suspension,  
31 revocation, or surrender and shall publish the name of the licensee.  
32 An authorized delegate shall immediately cease to provide money  
33 services as a delegate of the licensee upon receipt of notice, or after  
34 publication is made, that the licensee's license has been suspended,  
35 revoked, or surrendered.

36 (6) An authorized delegate may not provide money services other  
37 than those allowed the licensee under its license. In addition, an

1 authorized delegate may not provide money services outside the scope of  
2 activity permissible under the contract between the authorized delegate  
3 and the licensee, except activity in which the authorized delegate is  
4 authorized to engage under section 5 or 10 of this act.

5 NEW SECTION. **Sec. 15.** AUTHORITY TO CONDUCT EXAMINATIONS AND  
6 INVESTIGATIONS. (1) For the purpose of discovering violations of this  
7 chapter or rules adopted under this chapter, discovering unsafe and  
8 unsound practices, or securing information lawfully required under this  
9 chapter, the director may at any time, either personally or by  
10 designee, investigate or examine the business and, wherever located,  
11 the books, accounts, records, papers, documents, files, and other  
12 information used in the business of every licensee or its authorized  
13 delegates, and of every person who is engaged in the business of  
14 providing money services, whether the person acts or claims to act  
15 under or without the authority of this chapter. For these purposes,  
16 the director or designated representative shall have free access to the  
17 offices and places of business, books, accounts, papers, documents,  
18 other information, records, files, safes, and vaults of all such  
19 persons. The director or the director's designee may require the  
20 attendance of and examine under oath all persons whose testimony may be  
21 required about the business or the subject matter of any investigation,  
22 examination, or hearing and may require such person to produce books,  
23 accounts, papers, documents, records, files, and any other information  
24 the director or designated person declares is relevant to the inquiry.  
25 The director may require the production of original books, accounts,  
26 papers, documents, records, files, and other information; may require  
27 that such original books, accounts, papers, documents, records, files,  
28 and other information be copied; or may make copies himself or herself  
29 or by designee of such original books, accounts, papers, documents,  
30 records, files, or other information. The director or designated  
31 person may issue a subpoena or subpoena duces tecum requiring  
32 attendance or compelling production of the books, accounts, papers,  
33 documents, records, files, or other information.

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

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

4 NEW SECTION. **Sec. 16.** JOINT EXAMINATIONS. (1) The director may  
5 conduct an on-site examination or investigation of the books, accounts,  
6 records, papers, documents, files, and other information used in the  
7 business of every licensee or its authorized delegates in conjunction  
8 with representatives of other state agencies or agencies of another  
9 state or of the federal government. The director may accept an  
10 examination report or an investigation report of an agency of this  
11 state or of another state or of the federal government.

12 (2) A joint examination or investigation, or an acceptance of an  
13 examination or investigation report, does not preclude the director  
14 from conducting an examination or investigation under this chapter. A  
15 joint report or a report accepted under this section is an official  
16 report of the director for all purposes.

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

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

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

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

1 (b) The filing of a petition by or against the licensee, or any  
2 authorized delegate of the licensee, for receivership, the commencement  
3 of any other judicial or administrative proceeding for its dissolution  
4 or reorganization, or the making of a general assignment for the  
5 benefit of its creditors;

6 (c) The commencement of a proceeding to revoke, suspend, restrict,  
7 or condition its license, or otherwise discipline or sanction the  
8 licensee, in a state or country in which the licensee engages in  
9 business or is licensed;

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

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

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

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

17 (a) Provide the director with written notice of a proposed change  
18 of control within fifteen days after learning of the proposed change of  
19 control and at least thirty days prior to the proposed change of  
20 control;

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

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

25 (2) After review of a request for approval under subsection (1) of  
26 this section, the director may require the licensee to provide  
27 additional information concerning the licensee's proposed persons in  
28 control. The additional information must be limited to the same types  
29 required of the licensee, or persons in control of the licensee, as  
30 part of its original license application.

31 (3) The director shall approve a request for change of control  
32 under subsection (1) of this section if, after investigation, the  
33 director determines that the person, or group of persons, requesting  
34 approval meets the criteria for licensing set forth in sections 9 and  
35 12 of this act and that the public interest will not be jeopardized by  
36 the change of control.

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

3 (5) Before filing a request for approval to acquire control of a  
4 licensee, or person in control of a licensee, a person may request in  
5 writing a determination from the director as to whether the person  
6 would be considered a person in control of a licensee upon consummation  
7 of a proposed transaction. If the director determines that the person  
8 would not be a person in control of a licensee, the director shall  
9 respond in writing to that effect and the proposed person and  
10 transaction is not subject to the requirements of subsections (1)  
11 through (3) of this section.

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

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

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

20 (b) Bank statements and bank reconciliation records;

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

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

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

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

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

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

34 NEW SECTION. **Sec. 20.** MONEY LAUNDERING REPORTS. (1) Every  
35 licensee and its authorized delegates shall file with the director or  
36 the director's designee all reports required by federal currency

1 reporting, recordkeeping, and suspicious transaction reporting  
2 requirements as set forth in 31 U.S.C. Sec. 5311, 31 C.F.R. Sec. 103  
3 (2000), and other federal and state laws pertaining to money  
4 laundering. Every licensee and its authorized delegates shall maintain  
5 copies of these reports in its records in compliance with section 19 of  
6 this act.

7 (2) The timely filing of a complete and accurate report required  
8 under subsection (1) of this section with the appropriate federal  
9 agency is compliance with the requirements of subsection (1) of this  
10 section, unless the director notifies the licensee that reports of this  
11 type are not being regularly and comprehensively transmitted by the  
12 federal agency.

13 NEW SECTION. **Sec. 21.** CONFIDENTIALITY. (1) Except as otherwise  
14 provided in subsection (2) of this section, all information or reports  
15 obtained by the director from an applicant, licensee, or authorized  
16 delegate and all information contained in, or related to, examination,  
17 investigation, operating, or condition reports prepared by, on behalf  
18 of, or for the use of the director, or financial statements, balance  
19 sheets, or authorized delegate information, are confidential and are  
20 not subject to disclosure under chapter 42.17 RCW.

21 (2) The director may disclose information not otherwise subject to  
22 disclosure under subsection (1) of this section to representatives of  
23 state or federal agencies who agree in writing to maintain the  
24 confidentiality of the information; or if the director finds that the  
25 release is reasonably necessary for the protection of the public and in  
26 the interests of justice.

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

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

31 (1) A money transmitter licensee shall maintain at all times  
32 permissible investments that have a market value computed in accordance  
33 with generally accepted accounting principles of not less than the  
34 aggregate amount of all outstanding money transmission.

35 (2) The director, with respect to any money transmitter licensee,  
36 may limit the extent to which a type of investment within a class of

1 permissible investments may be considered a permissible investment,  
2 except for money, time deposits, savings deposits, demand deposits, and  
3 certificates of deposit issued by a federally insured financial  
4 institution. The director may prescribe in rule, or by order allow,  
5 other types of investments that the director determines to have a  
6 safety substantially equivalent to other permissible investments.

7 NEW SECTION. **Sec. 23.** TYPES OF PERMISSIBLE INVESTMENTS. (1)  
8 Except to the extent otherwise limited by the director under section 22  
9 of this act, the following investments are permissible for a money  
10 transmitter licensee under section 22 of this act:

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

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

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

22 (d) An investment security that is an obligation of the United  
23 States or a department, agency, or instrumentality thereof; an  
24 investment in an obligation that is guaranteed fully as to principal  
25 and interest by the United States; or an investment in an obligation of  
26 a state or a governmental subdivision, agency, or instrumentality  
27 thereof;

28 (e) Receivables that are payable to a licensee from its authorized  
29 delegates, in the ordinary course of business, pursuant to contracts  
30 which are not past due or doubtful of collection, if the aggregate  
31 amount of receivables under this subsection (1)(e) does not exceed  
32 twenty percent of the total permissible investments of a licensee and  
33 the licensee does not hold, at one time, receivables under this  
34 subsection (1)(e) in any one person aggregating more than ten percent  
35 of the licensee's total permissible investments; and

36 (f) A share or a certificate issued by an open-end management  
37 investment company that is registered with the United States securities

1 and exchange commission under the Investment Companies Act of 1940 (15  
2 U.S.C. Sec. 80(a)(1) through (64), and whose portfolio is restricted by  
3 the management company's investment policy to investments specified in  
4 (a) through (d) of this subsection.

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

7 (a) An interest-bearing bill, note, bond, or debenture of a person  
8 whose equity shares are traded on a national securities exchange or on  
9 a national over-the-counter market, if the aggregate of investments  
10 under this subsection (2)(a) does not exceed twenty percent of the  
11 total permissible investments of a licensee and the licensee does not,  
12 at one time, hold investments under this subsection (2)(a) in any one  
13 person aggregating more than ten percent of the licensee's total  
14 permissible investments;

15 (b) A share of a person traded on a national securities exchange or  
16 a national over-the-counter market or a share or a certificate issued  
17 by an open-end management investment company that is registered with  
18 the United States securities and exchange commission under the  
19 Investment Companies Act of 1940 (15 U.S.C. Sec. 80(a)(1) through (64),  
20 and whose portfolio is restricted by the management company's  
21 investment policy to shares of a person traded on a national securities  
22 exchange or a national over-the-counter market, if the aggregate of  
23 investments under this subsection (2)(b) does not exceed twenty percent  
24 of the total permissible investments of a licensee and the licensee  
25 does not, at one time, hold investments under this subsection (2)(b) in  
26 any one person aggregating more than ten percent of the licensee's  
27 total permissible investments;

28 (c) A demand-borrowing agreement made to a corporation or a  
29 subsidiary of a corporation whose securities are traded on a national  
30 securities exchange, if the aggregate of the amount of principal and  
31 interest outstanding under demand-borrowing agreements under this  
32 subsection (2)(c) does not exceed twenty percent of the total  
33 permissible investments of a licensee and the licensee does not, at one  
34 time, hold principal and interest outstanding under demand-borrowing  
35 agreements under this subsection (2)(c) with any one person aggregating  
36 more than ten percent of the licensee's total permissible investments;  
37 and



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

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

6 NEW SECTION. **Sec. 24.** ADMINISTRATIVE PROCEEDINGS. All  
7 administrative proceedings under this chapter must be conducted in  
8 accordance with the administrative procedure act, chapter 34.05 RCW.  
9 Any licensee or authorized delegate subject to a statement of charges  
10 and order of intent from the director shall be provided with an  
11 opportunity for a hearing as provided for in the administrative  
12 procedure act. Unless the person subject to the order appears in  
13 person or is represented by counsel at the hearing, the person has  
14 consented to issuance of the order. If after a hearing, the director  
15 finds by a preponderance of the evidence that grounds for sanctions  
16 under this chapter exist, then the director may impose any sanctions  
17 authorized by this chapter in a final order. As provided for in  
18 section 28 of this act, a temporary order to cease and desist is  
19 effective upon service upon the licensee or authorized delegate, and  
20 remains effective pending a hearing to determine if the order shall  
21 become permanent.

22 NEW SECTION. **Sec. 25.** SUSPENSION, REVOCATION, AND RECEIVERSHIP.  
23 (1) The director may issue an order to suspend, revoke, or condition a  
24 license, place a licensee in receivership, revoke the designation of an  
25 authorized delegate, compel payment of restitution by a licensee to  
26 damaged parties, require affirmative actions as are necessary by a  
27 licensee to comply with this chapter or rules adopted under this  
28 chapter, or remove from office or prohibit from participation in the  
29 affairs of any authorized delegate or any licensee, or both, any  
30 responsible individual, executive officer, person in control, or  
31 employee of the licensee, if:

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

35 (b) The licensee does not cooperate with an examination,

1 investigation, or subpoena lawfully issued by the director or the  
2 director's designee;

3 (c) The licensee engages in fraud, intentional misrepresentation,  
4 or gross negligence;

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

9 (e) The financial condition and responsibility, competence,  
10 experience, character, or general fitness of the licensee, authorized  
11 delegate, person in control of a licensee, or responsible individual of  
12 the licensee or authorized delegate indicates that it is not in the  
13 public interest to permit the person to provide money services;

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

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

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

22 (i) The licensee, its responsible individual, or any of its  
23 executive officers or other persons in control of the licensee are  
24 listed or become listed on the specially designated nationals and  
25 blocked persons list prepared by the United States department of the  
26 treasury as a potential threat to commit terrorist acts or to finance  
27 terrorist acts.

28 (2) In determining whether a licensee or other person subject to  
29 this chapter is engaging in an unsafe or unsound practice, the director  
30 may consider the size and condition of the licensee's money  
31 transmission services, the magnitude of the loss or potential loss to  
32 consumers or others, the gravity of the violation of this chapter, any  
33 action against the licensee by another state or the federal government,  
34 and the previous conduct of the person involved.

35 NEW SECTION. **Sec. 26.** SUSPENSION AND REVOCATION OF AUTHORIZED  
36 DELEGATES. (1) The director may issue an order to suspend, revoke, or  
37 condition the designation of an authorized delegate, impose civil

1 penalties, require payment of restitution to damaged parties, require  
2 affirmative actions as are necessary to comply with this chapter or the  
3 rules adopted under this chapter, or remove from office or prohibit  
4 from participation in the affairs of the authorized delegate or  
5 licensee, or both, any executive officer, person in control, or  
6 employee of the authorized delegate if the director finds that:

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

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

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

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

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

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

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

27 (2) In determining whether an authorized delegate is engaging in an  
28 unsafe or unsound practice, the director may consider the size and  
29 condition of the authorized delegate's provision of money services, the  
30 magnitude of the loss or potential loss to consumers or others, the  
31 gravity of the violation of this chapter or a rule adopted or order  
32 issued under this chapter, any action against the authorized delegate  
33 taken by another state or the federal government, and the previous  
34 conduct of the authorized delegate.

35 NEW SECTION. **Sec. 27.** UNLICENSED PERSONS. (1) If the director  
36 has reason to believe that a person has violated or is violating

1 section 5 or 10 of this act, the director or the director's designee  
2 may conduct an examination or investigation as authorized under section  
3 15 of this act.

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

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

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

18 NEW SECTION. **Sec. 28.** TEMPORARY ORDERS TO CEASE AND DESIST. (1)  
19 If the director determines that a violation of this chapter or of a  
20 rule adopted or an order issued under this chapter by a licensee,  
21 authorized delegate, or other person subject to this chapter is likely  
22 to cause immediate and irreparable harm to the licensee, its customers,  
23 or the public as a result of the violation, or cause insolvency or  
24 significant dissipation of the assets of the licensee, the director may  
25 issue a temporary order to cease and desist requiring the licensee,  
26 authorized delegate, or other person subject to this chapter to cease  
27 and desist from conducting business in this state or to cease and  
28 desist from the violation or undertake affirmative actions as are  
29 necessary to comply with this chapter, any rule adopted under this  
30 chapter, or order issued by the director under this chapter. The order  
31 is effective upon service upon the licensee, authorized delegate, or  
32 other person subject to this chapter.

33 (2) A temporary order to cease and desist remains effective and  
34 enforceable pending the completion of an administrative proceeding  
35 under chapter 34.05 RCW. If, after a hearing, the director finds that  
36 by a preponderance of the evidence, all or any part of the order is

1 supported by the facts, the director may make the temporary order to  
2 cease and desist permanent under chapter 34.05 RCW.

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

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

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

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

23 (3) The responsible individual is responsible under the license and  
24 may be subjected to administrative sanctions for any violations of this  
25 chapter or rules adopted under this chapter committed by the licensee  
26 or, if the responsible individual commits willful misconduct in  
27 supervising an authorized delegate or willfully avoids knowledge of an  
28 authorized delegate's business activities, violations committed by the  
29 licensee's authorized delegates.

30 NEW SECTION. **Sec. 31.** CIVIL PENALTIES. The director may assess  
31 a civil penalty against a licensee, responsible individual, authorized  
32 delegate, or other person that violates this chapter or a rule adopted  
33 or an order issued under this chapter in an amount not to exceed one  
34 hundred dollars per day for each day the violation is outstanding, plus

1 this state's costs and expenses for the investigation and prosecution  
2 of the matter, including reasonable attorneys' fees.

3 NEW SECTION. **Sec. 32.** CRIMINAL PENALTIES. (1) A person that  
4 intentionally makes a false statement, misrepresentation, or false  
5 certification in a record filed or required to be maintained under this  
6 chapter or that intentionally makes a false entry or omits a material  
7 entry in that record is guilty of a class C felony under chapter 9A.20  
8 RCW.

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

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

19 NEW SECTION. **Sec. 33.** ADMINISTRATION AND RULE-MAKING POWERS. The  
20 director has the power and broad administrative discretion to  
21 administer and interpret this chapter to fulfill the intent of the  
22 legislature as expressed in section 2 of this act. In accordance with  
23 chapter 34.05 RCW, the director may issue rules under this chapter to  
24 govern the activities of licensees and other persons subject to this  
25 chapter.

26 NEW SECTION. **Sec. 34.** FEES. (1) The director shall establish  
27 fees by rule sufficient to cover the costs of administering this  
28 chapter. The director may establish different fees for each type of  
29 license authorized under this chapter. These fees may include:

30 (a) An annual license assessment specified in rule by the director  
31 paid by each licensee on or before the annual license assessment due  
32 date;

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

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

4 (d) A nonrefundable application fee to cover the costs of  
5 processing license applications made to the director under this  
6 chapter;

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

10 (f) A transaction fee or set of transaction fees to cover the  
11 administrative costs associated with processing changes in control,  
12 changes of address, and other administrative changes as specified in  
13 rule by the director.

14 (2) The director shall ensure that when an examination or  
15 investigation, or any part of the examination or investigation, of any  
16 licensee applicant or person subject to licensing under this chapter,  
17 requires travel and services outside this state by the director or  
18 designee, the licensee applicant or person subject to licensing under  
19 this chapter that is the subject of the examination or investigation  
20 shall pay the actual travel expenses incurred by the director or  
21 designee conducting the examination or investigation.

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

24 NEW SECTION. **Sec. 35. MONEY TRANSMITTER DELIVERY, RECEIPTS, AND**  
25 **REFUNDS.** (1) Every money transmitter licensee and its authorized  
26 delegates shall transmit the monetary equivalent of all money or  
27 equivalent value received from a customer for transmission, net of any  
28 fees, or issue instructions committing the money or its monetary  
29 equivalent, to the person designated by the customer within ten  
30 business days after receiving the money or equivalent value, unless  
31 otherwise ordered by the customer or unless the licensee or its  
32 authorized delegate has reason to believe that a crime has occurred, is  
33 occurring, or may occur as a result of transmitting the money. For  
34 purposes of this subsection, money is considered to have been  
35 transmitted when it is available to the person designated by the  
36 customer and a reasonable effort has been made to inform this  
37 designated person that the money is available, whether or not the

1 designated person has taken possession of the money. As used in this  
2 subsection, "monetary equivalent," when used in connection with a money  
3 transmission in which the customer provides the licensee or its  
4 authorized delegate with the money of one government, and the  
5 designated recipient is to receive the money of another government,  
6 means the amount of money, in the currency of the government that the  
7 designated recipient is to receive, as converted at the retail exchange  
8 rate offered by the licensee or its authorized delegate to the customer  
9 in connection with the transaction.

10 (2) Every money transmitter licensee and its authorized delegates  
11 shall provide a receipt to the customer that clearly states the amount  
12 of money presented for transmission and the total of any fees charged  
13 by the licensee. If the rate of exchange for a money transmission to  
14 be paid in the currency of another country is fixed at the time the  
15 money transmission is initiated, then the receipt provided to the  
16 customer shall disclose the rate of exchange for that transaction, and  
17 the duration, if any, for the payment to be made at the fixed rate of  
18 exchange so specified. If the rate of exchange for a money  
19 transmission to be paid in the currency of another country is not fixed  
20 at the time the money transmission is sent, the receipt provided to the  
21 customer shall disclose that the rate of exchange for that transaction  
22 will be set at the time the recipient of the money transmission picks  
23 up the funds in the foreign country. As used in this section, "fees"  
24 does not include revenue that a licensee or its authorized delegate  
25 generates, in connection with a money transmission, in the conversion  
26 of the money of one government into the money of another government.

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

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

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

37 (c) The licensee or its authorized delegate has reason to believe



1 that a crime has occurred, is occurring, or may potentially occur as a  
2 result of transmitting the money as requested by the customer or  
3 refunding the money as requested by the customer; or

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

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

9 (1) Directly or indirectly employ any scheme, device, or artifice  
10 to defraud or mislead any person, including but not limited to engaging  
11 in bait and switch advertising or sales practices;

12 (2) Directly or indirectly engage in any unfair or deceptive act or  
13 practice toward any person, including but not limited to any false or  
14 deceptive statement about fees or other terms of a money transmission  
15 or currency exchange;

16 (3) Directly or indirectly obtain property by fraud or  
17 misrepresentation;

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

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

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

27 (7) Knowingly make or publish to the director or director's  
28 designee, or concur in making or publishing to the director or  
29 director's designee any written report, exhibit, or statement of its  
30 affairs or pecuniary condition containing any material statement which  
31 is false, or omit or concur in omitting any statement required by law  
32 to be contained therein; or

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

35 NEW SECTION. **Sec. 37.** EFFECTIVE DATE. This act takes effect  
36 October 1, 2003.

1        NEW SECTION.    **Sec. 38.**    IMPLEMENTATION.    The director or the  
2 director's designee may take such steps as are necessary to ensure that  
3 this act is implemented on its effective date.    In particular, the  
4 director or the director's designee shall conduct outreach to small  
5 businesses and immigrant communities to enhance awareness of and  
6 compliance with state and federal laws governing money transmission and  
7 currency exchange, and to provide technical assistance in applying for  
8 a license under this chapter and understanding the requirements of this  
9 chapter.

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

14        NEW SECTION.    **Sec. 40.**    SEVERABILITY CLAUSE.    If any provision of  
15 this act or its application to any person or circumstance is held  
16 invalid, the remainder of the act or the application of the provision  
17 to other persons or circumstances is not affected.

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

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

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