

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 729

A bill to amend 2006 PA 250, entitled
"Money transmission services act,"
by amending sections 2, 3, and 4 (MCL 487.1002, 487.1003, and
487.1004).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Agency" ~~means the office of financial and insurance~~
3 ~~services in the department of labor and economic growth.~~**OR**

4 **"DEPARTMENT" MEANS THE DEPARTMENT OF INSURANCE AND FINANCIAL**
5 **SERVICES.**

6 **(B) "AGENT OF A PAYEE" MEANS A PERSON APPOINTED BY A PAYEE TO**
7 **COLLECT AND PROCESS PAYMENTS AS THE BONA FIDE AGENT OF THE PAYEE.**

8 **(C)** ~~(b)~~ "Applicant" means a person that files an application
9 for a license under this act.

1 (D) ~~(e)~~—"Authorized delegate" means a person that a licensee
 2 designates to provide money transmission services in this state on
 3 behalf of the licensee.

4 (E) "CLOSED-LOOP PREPAID ACCESS" MEANS ACCESS TO FUNDS OR THE
 5 VALUE OF FUNDS THAT IS PAID IN ADVANCE, MAY BE RETRIEVED OR
 6 TRANSFERRED AT SOME TIME IN THE FUTURE THROUGH A DEVICE OR VEHICLE,
 7 AND MAY BE USED ONLY TO ACQUIRE GOODS OR SERVICES IN TRANSACTIONS
 8 THAT INVOLVE 1 OR MORE SPECIFIC MERCHANTS OR 1 OR MORE SPECIFIC
 9 LOCATIONS.

10 (F) ~~(d)~~—"Commissioner" means the commissioner of the office of
 11 ~~financial and insurance services.~~ OR "DIRECTOR" MEANS THE DIRECTOR
 12 OF THE DEPARTMENT OR HIS OR HER DESIGNEE.

13 (G) ~~(e)~~—"Control" means any of the following:

14 (i) Ownership of, or the power to vote, directly or
 15 indirectly, at least 25% of a class of voting securities or voting
 16 interests of a licensee or person in control of a licensee.

17 (ii) Power to elect a majority of executive officers,
 18 managers, directors, trustees, or other persons exercising
 19 managerial authority of a licensee or person in control of a
 20 licensee.

21 (iii) The power to exercise directly or indirectly a
 22 controlling influence over the management or policies of a licensee
 23 or person in control of a licensee.

24 (H) ~~(f)~~—"Control person" means a director, manager, or
 25 executive officer of a licensee OR APPLICANT or ~~a natural person~~ AN
 26 INDIVIDUAL who has the authority to participate in the direction,
 27 directly or indirectly through 1 or more other ~~natural persons,~~

1 **INDIVIDUALS**, of the management or policies of a licensee **OR**
2 **APPLICANT**.

3 (I) ~~(g)~~—"Depository financial institution" means a bank,
4 national bank, savings and loan association, savings bank, or
5 credit union organized under the laws of this state, another state,
6 the District of Columbia, the United States, or a territory or
7 protectorate of the United States whose deposits are insured by an
8 agency of the federal government.

9 (J) "DEVICE OR VEHICLE" MEANS AN OBJECT OR INFORMATION USED TO
10 PROVIDE CLOSED-LOOP PREPAID ACCESS OR PREPAID ACCESS, SUCH AS A
11 CARD, CODE, ELECTRONIC SERIAL NUMBER, MOBILE IDENTIFICATION NUMBER,
12 OR PERSONAL IDENTIFICATION NUMBER. A DEVICE OR VEHICLE MAY BE IN
13 EITHER TANGIBLE OR ELECTRONIC FORM.

14 (K) ~~(h)~~—"Executive officer" means an officer, member, or
15 partner of a licensee, including, but not limited to, a chief
16 executive officer, president, vice president, chief financial
17 officer, controller, compliance officer, or any other similar
18 position.

19 (I) ~~(i)~~—"Financial licensing act" means any of the financial
20 licensing acts, as that term is defined in section 2 of the
21 consumer financial services act, 1988 PA 161, MCL 487.2052.

22 (M) ~~(j)~~—"Licensee" means a person **THAT IS** licensed or required
23 to be licensed under this act.

24 (N) ~~(k)~~—"Location" means a place of business at which
25 activities regulated by this act occur.

26 Sec. 3. As used in this act:

27 (a) "Material litigation" means litigation that, according to

1 generally accepted accounting principles, is significant to an
2 applicant's or a licensee's financial health and must be disclosed
3 in the applicant's or licensee's audited financial statements,
4 report to shareholders, or similar records.

5 (b) "Money" means a medium of exchange authorized or adopted
6 by the United States or a foreign government as a part of its
7 currency that is customarily used and accepted as a medium of
8 exchange in the country of issuance. The term includes a monetary
9 unit of account established by an intergovernmental organization or
10 by agreement between 2 or more governments.

11 (c) "Money transmission services" means selling or issuing
12 payment instruments or ~~stored value devices~~ **CLOSED-LOOP PREPAID**
13 **ACCESS OR PREPAID ACCESS DEVICES OR VEHICLES** or receiving money or
14 monetary value for transmission. The term does not include the
15 provision solely of delivery, online, or telecommunications
16 services or network access.

17 (d) "Outstanding payment instrument" means any check, draft,
18 money order, travelers check, other written instrument, electronic
19 or wire transfer, ~~stored value device~~, **CLOSED-LOOP PREPAID ACCESS**
20 **OR PREPAID ACCESS DEVICE OR VEHICLE**, or facsimile issued by a
21 licensee that has been sold in the United States directly by the
22 licensee or any payment instrument issued by the licensee that has
23 been sold by the licensee or an authorized delegate in the United
24 States, that has been reported to the licensee as having been sold,
25 and that has not yet been paid by or for the licensee.

26 (E) "PAYEE" MEANS THE PROVIDER OF GOODS OR SERVICES, NOT
27 INCLUDING MONEY TRANSMISSION SERVICES, THAT IS OWED PAYMENT OF

1 **MONEY OR OTHER MONETARY VALUE FROM THE PERSON THAT IS PAYING FOR**
 2 **THE GOODS OR SERVICES.**

3 **(F)** ~~(e)~~—"Payment instrument" means any electronic or written
 4 check, draft, money order, travelers check, or other wire,
 5 electronic, or written instrument or order for the transmission or
 6 payment of money, sold or issued to 1 or more persons, whether or
 7 not the instrument is negotiable. The term includes any ~~stored~~
 8 ~~value device or facsimile.~~ **CLOSED-LOOP PREPAID ACCESS OR PREPAID**
 9 **ACCESS DEVICE OR VEHICLE.** The term does not include any credit card
 10 voucher, letter of credit, or tangible object redeemable by the
 11 issuer in goods or services.

12 **(G)** ~~(f)~~—"Person" means an individual, partnership,
 13 association, corporation, limited liability company, trust, estate,
 14 joint venture, government, governmental subdivision, agency or
 15 instrumentality, public corporation, or any other legal entity.

16 **(H) "PREPAID ACCESS" MEANS ACCESS TO FUNDS OR THE VALUE OF**
 17 **FUNDS THAT HAVE BEEN PAID IN ADVANCE AND CAN BE RETRIEVED OR**
 18 **TRANSFERRED AT SOME POINT IN THE FUTURE THROUGH A DEVICE OR**
 19 **VEHICLE. THE TERM DOES NOT INCLUDE CLOSED-LOOP PREPAID ACCESS.**

20 **(I)** ~~(g)~~—"Record" means information that is inscribed on a
 21 tangible medium or that is stored in an electronic or other medium
 22 and is retrievable in perceivable form.

23 **(J)** ~~(h)~~—"State" means a state of the United States, the
 24 District of Columbia, Puerto Rico, the United States Virgin
 25 Islands, or any territory or protectorate of the United States.

26 ~~——(i) "Stored value device" means a card or other tangible~~
 27 ~~object used for the transmission or payment of money that contains~~

~~a microprocessor chip, magnetic stripe, or other means for the storage of information; that is prefunded; and the value of which is reduced after each use. The term does not include a tangible object the value of which is redeemable in the issuer's goods and services.~~

(K) ~~(j)~~ "Travelers check" means an instrument for the payment of money or a foreign currency instrument in any denomination that provides for both of the following:

(i) A specimen signature of the purchaser to be completed at the time of purchase of the instrument.

(ii) A countersignature of the purchaser to be completed when the instrument is negotiated.

Sec. 4. This act does not apply to any of the following:

(a) The United States or a department, agency, or instrumentality of the United States.

~~(b) Money transmission services provided by the~~ **THE** United States ~~postal service~~ **POSTAL SERVICE** or ~~by a contractor~~ **TO THE EXTENT THAT IT PROVIDES MONEY TRANSMISSION SERVICES** on behalf of the United States ~~postal service~~ **POSTAL SERVICE**.

(c) A state, county, city, or any other governmental subdivision of a state.

(d) A depository financial institution, office of an international banking corporation, or branch of a foreign bank; a bank holding company or subsidiary, as those terms are defined in section 2(a)(1) and 2(d) of the bank holding company act of 1956, 12 USC 1841; a bank service company organized under the bank service company act, 12 USC 1861 to 1867; a subsidiary or affiliate

1 of a depository financial institution, or a subsidiary or affiliate
2 of a holding company of a depository financial institution, if the
3 depository financial institution maintains its main office or a
4 branch office in this state; a credit union service organization,
5 as that term is defined in section 102 of the credit union act,
6 2003 PA 215, MCL 490.102; or a corporation organized under the Edge
7 act, 12 USC 611 to 633.

8 (E) A PERSON, TO THE EXTENT THAT IT PROVIDES MONEY
9 TRANSMISSION SERVICES AS AN AGENT FOR AN ENTITY DESCRIBED IN
10 SUBDIVISION (D), IF BOTH OF THE FOLLOWING ARE MET:

11 (i) THE AGENCY RELATIONSHIP BETWEEN THE PERSON THAT IS
12 PROVIDING THE MONEY TRANSMISSION SERVICES AND THE ENTITY DESCRIBED
13 IN SUBDIVISION (D) IS ESTABLISHED THROUGH WRITTEN AGREEMENT.

14 (ii) THE ENTITY DESCRIBED IN SUBDIVISION (D) REMAINS
15 RESPONSIBLE FOR PROVIDING THE MONEY TRANSMISSION SERVICES TO ITS
16 CUSTOMERS.

17 (F) A PERSON TO THE EXTENT THAT IT ISSUES, SELLS, OR
18 DISTRIBUTES A CLOSED-LOOP PREPAID ACCESS DEVICE OR VEHICLE, IF THE
19 FUNDS ASSOCIATED WITH THAT DEVICE OR VEHICLE DO NOT EXCEED
20 \$2,000.00 MAXIMUM VALUE ON ANY DAY.

21 (G) A PERSON TO THE EXTENT THAT IT IS ACTING AS AN AGENT OF A
22 PAYEE, IF THE PERSON DEMONSTRATES TO THE DIRECTOR THAT ALL OF THE
23 FOLLOWING ARE MET:

24 (i) THERE EXISTS A WRITTEN AGREEMENT BETWEEN THE PAYEE AND
25 AGENT DIRECTING THE AGENT TO COLLECT AND PROCESS PAYMENTS ON THE
26 PAYEE'S BEHALF.

27 (ii) THE PAYEE HOLDS THE AGENT OUT TO THE PUBLIC AS ACCEPTING

1 **PAYMENTS ON THE PAYEE'S BEHALF.**

2 **(iii) PAYMENT IS TREATED AS RECEIVED BY THE PAYEE AT THE TIME**
 3 **IT IS RECEIVED BY THE AGENT.**

4 **(H) ~~(e) Electronic~~ AN ELECTRONIC** funds transfer of
 5 governmental benefits for a federal, state, county, or governmental
 6 agency by a contractor on behalf of the United States or a
 7 department, agency, or instrumentality of the United States or a
 8 state or governmental subdivision, agency, or instrumentality of a
 9 state.

10 **(I) ~~(f)~~ A board of trade THAT IS** designated as a contract
 11 market under the commodity exchange act, 7 USC 1 to 27f, or a
 12 person that in the ordinary course of business provides clearance
 13 and settlement services for a board of trade, to the extent of its
 14 operation as or for that board.

15 **(J) ~~(g)~~ A registered futures commission merchant** under the
 16 federal commodities laws, to the extent of its operation as a
 17 merchant.

18 **(K) ~~(h)~~ A person that provides clearance or settlement**
 19 services under a registration as a clearing agency or an exemption
 20 from registration granted under the federal securities laws, to the
 21 extent of its operation as a provider under this subdivision.

22 **(l) ~~(i)~~ An operator of a payment system, to the extent that it**
 23 provides processing, clearing, settlement, or other similar
 24 services between or among persons excluded by **UNDER** this section in
 25 connection with wire transfers, credit card transactions, debit
 26 card transactions, ~~stored value~~ **PREPAID ACCESS** transactions,
 27 **CLOSED-LOOP PREPAID ACCESS TRANSACTIONS**, automated clearinghouse

1 transfers, or other similar funds transfers or transactions.

2 (M) ~~(j)~~—A person **THAT IS** registered as a securities broker-
3 dealer under federal or state securities laws, to the extent of its
4 operation as a registered broker-dealer.

5 Enacting section 1. This amendatory act takes effect 90 days
6 after the date it is enacted into law.