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BILL



ANALYSIS

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Senate Bill 729 (as introduced 12-13-17)
Sponsor: Senator Margaret E. O'Brien
Committee: Banking and Financial Institutions

Date Completed: 1-23-18

CONTENT

The bill would amend the Money Transmission Services Act, which regulates paper and electronic money transmission services in the State and requires a person providing those services to be licensed, to identify additional types of entities that would not be subject to the Act.

The Act defines "money transmission services" as selling or issuing payment instruments or stored value devices or receiving money or monetary value for transmission. The bill would refer to "prepaid access devices or vehicles" instead of "stored value devices", and would replace the term "stored value device" with "prepaid access device or vehicle" in other definitions.

"Prepaid access" would mean access to funds or the value of funds that have been paid in advance and can be retrieved or transferred at some point in the future through a device or vehicle. The term would not include closed-loop prepaid access. "Closed-loop prepaid access" would mean access to funds or the value of funds that is paid in advance, may be retrieved or transferred at some time in the future through a device or vehicle, and may be used only to acquire goods or services in transactions that involve one or more specific locations.

"Device or vehicle" would mean an object or information used to provide closed-loop prepaid access or prepaid access, such as a card, code, electronic serial number, mobile identification number, or personal identification number.

The Act does not apply to certain entities, such as the United States, the United States Postal Service, a state, a county, or a city. The Act also does not apply to the following types of financial institutions: a depository financial institution or its subsidiary or affiliate; an office of an international banking corporation; a branch of a foreign bank; a bank holding company or subsidiary; a bank service company; or a subsidiary or affiliate of a holding company of a depository financial institution.

Under the bill, the Act also would not apply to the following:

- A person that issued, sold, or distributed a closed-loop prepaid access device or vehicle, if the funds associated with that device or vehicle did not exceed \$2,000 maximum value on any day.
- A person to the extent that it was acting as an agent of a payee, if the person demonstrated to the Director that a written agreement existed between the payee and agent directing the agent to collect and process payments on the payee's behalf; the

-- payee held the agent out to the public as accepting payments on the payee's behalf; and payment was treated as received by the payee at the time it was received.

"Payee" would mean a provider of goods or service, not including money transmission services, that is owed payment of money or other monetary value from the person that is paying for the goods or services.

"Agent of a payee" would mean a person appointed by a payee to collect and process payments as the bona fide agent of the payee.

Additionally, the Act would not apply to a person, to the extent that it provided money transmission services as an agent for a type of financial institution listed above, if both of the following were met:

- The agency relationship between the person that was provided the money transmission services and the financial institution was established through written agreement
- The financial institution remained responsible for providing the money transmission services to its customers.

The bill would take effect 90 days after it was enacted.

MCL 487.1002-487.1004

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

The bill would have an indeterminate impact upon State licensure revenue under the Money Transmission Services Act. The bill would create three new exemptions from licensure as a money transmission services provider: for agents of financial institutions as described in the Act, agents of payees as defined in the bill, and entities that offer closed-loop prepaid devices (e.g., gift cards). The Department of Insurance and Financial Services does not anticipate any new loss of revenue as a result of the creation of these exemptions.

The Department currently licenses 107 entities under the Act; however, information is not available concerning the number of those licensed entities that only act exclusively as agents for payees or financial institutions. If a large number of current licensees attempted to claim an exemption under the Act, the loss of revenue could be significant. License fees under the Act range from \$3,600 to \$6,600, and surety bond requirements range from \$500,000 to \$1.5 million.

The bill would not have a direct impact on local units of government.

Fiscal Analyst: Michael Siracuse

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