

# SENATE BILL No. 729

December 13, 2017, Introduced by Senators O'BRIEN, MACGREGOR and HANSEN and referred to the Committee on Banking and Financial Institutions.

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

1 for a license under this act.

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

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

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

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

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

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

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

25 (H) ~~(f)~~ "Control person" means a director, manager, or  
26 executive officer of a licensee OR APPLICANT or ~~a natural person~~ AN  
27 INDIVIDUAL who has the authority to participate in the direction,

1 directly or indirectly through 1 or more other ~~natural persons,~~  
2 **INDIVIDUALS**, of the management or policies of a licensee **OR**  
3 **APPLICANT**.

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

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

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~~ **PREPAID ACCESS DEVICES**  
13 **OR VEHICLES** or receiving money or monetary value for transmission.  
14 The term does not include the provision solely of delivery, online,  
15 or telecommunications services or network access.

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

25 (E) **"PAYEE" MEANS THE PROVIDER OF GOODS OR SERVICES, NOT**  
26 **INCLUDING MONEY TRANSMISSION SERVICES, THAT IS OWED PAYMENT OF**  
27 **MONEY OR OTHER MONETARY VALUE FROM THE PERSON THAT IS PAYING FOR**

1 **THE GOODS OR SERVICES.**

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

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

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

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

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

24 ~~—— (i) "Stored value device" means a card or other tangible~~  
 25 ~~object used for the transmission or payment of money that contains~~  
 26 ~~a microprocessor chip, magnetic stripe, or other means for the~~  
 27 ~~storage of information; that is prefunded; and the value of which~~

1 ~~is reduced after each use. The term does not include a tangible~~  
 2 ~~object the value of which is redeemable in the issuer's goods and~~  
 3 ~~services.~~

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

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

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

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

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

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

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

20 (d) A depository financial institution, office of an  
 21 international banking corporation, or branch of a foreign bank; a  
 22 bank holding company or subsidiary, as those terms are defined in  
 23 section 2(a)(1) and 2(d) of the bank holding company act of 1956,  
 24 12 USC 1841; a bank service company organized under the bank  
 25 service company act, 12 USC 1861 to 1867; a subsidiary or affiliate  
 26 of a depository financial institution, or a subsidiary or affiliate  
 27 of a holding company of a depository financial institution, if the

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

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

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

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

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

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

21 (i) THERE EXISTS A WRITTEN AGREEMENT BETWEEN THE PAYEE AND  
22 AGENT DIRECTING THE AGENT TO COLLECT AND PROCESS PAYMENTS ON THE  
23 PAYEE'S BEHALF.

24 (ii) THE PAYEE HOLDS THE AGENT OUT TO THE PUBLIC AS ACCEPTING  
25 PAYMENTS ON THE PAYEE'S BEHALF.

26 (iii) PAYMENT IS TREATED AS RECEIVED BY THE PAYEE AT THE TIME  
27 IT IS RECEIVED BY THE AGENT.

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

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

12           (J) ~~(g)~~ A registered futures commission merchant under the  
 13 federal commodities laws, to the extent of its operation as a  
 14 merchant.

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

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

26           (M) ~~(j)~~ A person **THAT IS** registered as a securities broker-  
 27 dealer under federal or state securities laws, to the extent of its



1 operation as a registered broker-dealer.

2 Enacting section 1. This amendatory act takes effect 90 days

3 after the date it is enacted into law.