

Act No. 573
Public Acts of 2018
Approved by the Governor
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**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018**

Introduced by Senators O'Brien, MacGregor and Hansen

ENROLLED SENATE BILL No. 729

AN ACT to amend 2006 PA 250, entitled "An act to regulate the money transmission services business; to require the licensing of persons engaged in providing money transmission services; to prescribe powers and duties of certain state agencies and officials; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending sections 2, 3, and 4 (MCL 487.1002, 487.1003, and 487.1004).

The People of the State of Michigan enact:

Sec. 2. As used in this act:

- (a) "Agency" or "department" means the department of insurance and financial services.
- (b) "Agent of a payee" means a person appointed by a payee to collect and process payments as the bona fide agent of the payee.
- (c) "Applicant" means a person that files an application for a license under this act.
- (d) "Authorized delegate" means a person that a licensee designates to provide money transmission services in this state on behalf of the licensee.
- (e) "Closed-loop prepaid access" means 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 1 or more specific merchants or 1 or more specific locations.
- (f) "Commissioner" or "director" means the director of the department or his or her designee.
- (g) "Control" means any of the following:
 - (i) Ownership of, or the power to vote, directly or indirectly, at least 25% of a class of voting securities or voting interests of a licensee or person in control of a licensee.
 - (ii) Power to elect a majority of executive officers, managers, directors, trustees, or other persons exercising managerial authority of a licensee or person in control of a licensee.
 - (iii) The power to exercise directly or indirectly a controlling influence over the management or policies of a licensee or person in control of a licensee.
- (h) "Control person" means a director, manager, or executive officer of a licensee or applicant or an individual who has the authority to participate in the direction, directly or indirectly through 1 or more other individuals, of the management or policies of a licensee or applicant.
- (i) "Depository financial institution" means a bank, national bank, savings and loan association, savings bank, or credit union organized under the laws of this state, another state, the District of Columbia, the United States, or a territory or protectorate of the United States whose deposits are insured by an agency of the federal government.
- (j) "Device or vehicle" means 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. A device or vehicle may be in either tangible or electronic form.

(k) "Executive officer" means an officer, member, or partner of a licensee, including, but not limited to, a chief executive officer, president, vice president, chief financial officer, controller, compliance officer, or any other similar position.

(l) "Financial licensing act" means any of the financial licensing acts, as that term is defined in section 2 of the consumer financial services act, 1988 PA 161, MCL 487.2052.

(m) "Licensee" means a person that is licensed or required to be licensed under this act.

(n) "Location" means a place of business at which activities regulated by this act occur.

Sec. 3. As used in this act:

(a) "Material litigation" means litigation that, according to generally accepted accounting principles, is significant to an applicant's or a licensee's financial health and must be disclosed in the applicant's or licensee's audited financial statements, report to shareholders, or similar records.

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

(c) "Money transmission services" means selling or issuing payment instruments or closed-loop prepaid access or prepaid access devices or vehicles or receiving money or monetary value for transmission. The term does not include the provision solely of delivery, online, or telecommunications services or network access.

(d) "Outstanding payment instrument" means any check, draft, money order, travelers check, other written instrument, electronic or wire transfer, closed-loop prepaid access or prepaid access device or vehicle, or facsimile issued by a licensee that has been sold in the United States directly by the licensee or any payment instrument issued by the licensee that has been sold by the licensee or an authorized delegate in the United States, that has been reported to the licensee as having been sold, and that has not yet been paid by or for the licensee.

(e) "Payee" means the provider of goods or services, 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.

(f) "Payment instrument" means any electronic or written check, draft, money order, travelers check, or other wire, electronic, or written instrument or order for the transmission or payment of money, sold or issued to 1 or more persons, whether or not the instrument is negotiable. The term includes any closed-loop prepaid access or prepaid access device or vehicle. The term does not include any credit card voucher, letter of credit, or tangible object redeemable by the issuer in goods or services.

(g) "Person" means an individual, partnership, association, corporation, limited liability company, trust, estate, joint venture, government, governmental subdivision, agency or instrumentality, public corporation, or any other legal entity.

(h) "Prepaid access" means 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 does not include closed-loop prepaid access.

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

(j) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or protectorate of the United States.

(k) "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) The United States Postal Service or a contractor to the extent that it provides money transmission services on behalf of the United States 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 of a depository financial institution, or a subsidiary or affiliate of a holding company of a depository financial institution, if the depository financial institution maintains its main office or a branch office in this state; a credit union service organization, as that term is defined in section 102 of the credit union act, 2003 PA 215, MCL 490.102; or a corporation organized under the Edge act, 12 USC 611 to 633.

(e) A person, to the extent that it provides money transmission services as an agent for an entity described in subdivision (d), if both of the following are met:

(i) The agency relationship between the person that is providing the money transmission services and the entity described in subdivision (d) is established through written agreement.

(ii) The entity described in subdivision (d) remains responsible for providing the money transmission services to its customers.

(f) A person to the extent that it issues, sells, or distributes a closed-loop prepaid access device or vehicle, if the funds associated with that device or vehicle do not exceed \$2,000.00 maximum value on any day.

(g) A person to the extent that it is acting as an agent of a payee, if the person demonstrates to the director that all of the following are met:

(i) There exists a written agreement between the payee and agent directing the agent to collect and process payments on the payee's behalf.

(ii) The payee holds the agent out to the public as accepting payments on the payee's behalf.

(iii) Payment is treated as received by the payee at the time it is received by the agent.

(h) An electronic funds transfer of governmental benefits for a federal, state, county, or governmental agency by a contractor on behalf of the United States or a department, agency, or instrumentality of the United States or a state or governmental subdivision, agency, or instrumentality of a state.

(i) A board of trade that is designated as a contract market under the commodity exchange act, 7 USC 1 to 27f, or a person that in the ordinary course of business provides clearance and settlement services for a board of trade, to the extent of its operation as or for that board.

(j) A registered futures commission merchant under the federal commodities laws, to the extent of its operation as a merchant.

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

(l) An operator of a payment system, to the extent that it provides processing, clearing, settlement, or other similar services between or among persons excluded under this section in connection with wire transfers, credit card transactions, debit card transactions, prepaid access transactions, closed-loop prepaid access transactions, automated clearinghouse transfers, or other similar funds transfers or transactions.

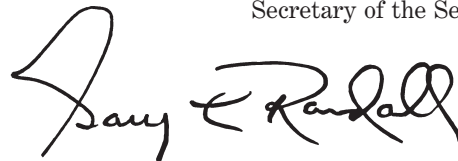
(m) A person that is registered as a securities broker-dealer under federal or state securities laws, to the extent of its operation as a registered broker-dealer.

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

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor