

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011  
4

# A Bill

SENATE BILL 785

5 By: Senator J. Key  
6

## For An Act To Be Entitled

8 AN ACT TO AMEND THE MONEY SERVICES ACT; AND FOR OTHER  
9 PURPOSES.  
10

### Subtitle

11 TO AMEND THE MONEY SERVICES ACT.  
12  
13  
14  
15

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
17

18 SECTION 1. Arkansas Code § 23-55-102(8), concerning the definition of  
19 a "licensee", is amended to read as follows:

20 (8) "Licensee" means a person licensed ~~or approved~~ under this chapter.  
21

22 SECTION 2. Arkansas Code § 23-55-201(a), concerning the requirement of  
23 a money transmission license, is amended to read as follows:

24 (a) A person may not engage in the business of money transmission or  
25 advertise, solicit, or hold itself out as providing money transmission unless  
26 the person:

27 (1) is licensed under this subchapter ~~or approved to engage in~~  
28 ~~money transmission under § 23-55-203;~~

29 (2) is an authorized delegate of a person licensed under this  
30 subchapter; or

31 (3) ~~is an authorized delegate of a person approved to engage in~~  
32 ~~money transmission under § 23-55-203; or~~

33 ~~(4)~~ is excluded under § 23-55-103.  
34

35 SECTION 3. Arkansas Code § 23-55-203 is repealed.

36 ~~23-55-203. Approval to engage in money transmission when licensed in~~



1 another state.

2 (a) ~~A person that is licensed to engage in money transmission in at~~  
 3 ~~least one other state, with the approval of the commissioner and in~~  
 4 ~~accordance with this section, may engage in money transmission and currency~~  
 5 ~~exchange in this state without being licensed pursuant to § 23-55-202 if:~~

6 (1) ~~the state in which the person is licensed has enacted the~~  
 7 ~~Uniform Money Services Act or the commissioner determines that the money~~  
 8 ~~transmission laws of that state are substantially similar to those imposed by~~  
 9 ~~the law of this state;~~

10 (2) ~~the person submits to, and in the form required by, the~~  
 11 ~~commissioner:~~

12 (A) ~~in a record, an application for approval to engage in~~  
 13 ~~money transmission and currency exchange in this state without being licensed~~  
 14 ~~pursuant to § 23-55-202;~~

15 (B) ~~a nonrefundable fee of \$1,000;~~

16 (C) ~~a certification of license history in the other state;~~

17 and

18 (D) ~~a surety bond as set out in § 23-55-204.~~

19 (b) ~~When an application for approval under this section is complete,~~  
 20 ~~the commissioner shall promptly notify the applicant, in a record, of the~~  
 21 ~~date on which the request was determined to be complete and:~~

22 (1) ~~the commissioner shall approve or deny the request within~~  
 23 ~~120 days after that date; or~~

24 (2) ~~if the request is not approved or denied within 120 days~~  
 25 ~~after that date:~~

26 (A) ~~the request is approved; and~~

27 (B) ~~the approval takes effect as of the first business day~~  
 28 ~~after expiration of the 120-day period.~~

29 (c) ~~A person that engages in money transmission and currency exchange~~  
 30 ~~in this state pursuant to this section shall comply with the requirements of,~~  
 31 ~~and is subject to the sanctions under § 23-55-601 et seq., § 23-55-701 et~~  
 32 ~~seq., and § 23-55-801 et seq., as if the person were licensed pursuant to §~~  
 33 ~~23-55-202.~~

34

35 SECTION 4. Arkansas Code § 23-55-204 is amended to read as follows:  
 36 23-55-204. Security.

1 (a) Except as otherwise provided in subsection (b), a surety bond in  
 2 the amount of \$50,000 plus \$10,000 per location in this State where the  
 3 applicant and its authorized delegates engage in money transmission or  
 4 provide other money services, with the maximum required amount of the surety  
 5 bond of \$300,000, ~~not exceeding a total addition of \$250,000,~~ must accompany  
 6 an application for a license ~~or approval~~ to engage in money services.

7 (b) The surety bond must be in a form satisfactory to the Securities  
 8 Commissioner and payable to the State for the benefit of any claimant against  
 9 the licensee to secure the faithful performance of the obligations of the  
 10 licensee with respect to money transmission.

11 (c) The aggregate liability on a surety bond may not exceed the  
 12 principal sum of the bond. A claimant against a licensee may maintain an  
 13 action on the bond, or the commissioner may maintain an action on behalf of  
 14 the claimant.

15 (d) A surety bond must cover claims for so long as the commissioner  
 16 specifies, but for at least five years after the licensee ceases to provide  
 17 money services in this State. However, the commissioner may permit the  
 18 amount of security to be reduced or eliminated before the expiration of that  
 19 time to the extent the amount of the licensee's payment instruments or  
 20 stored-value obligations outstanding in this State is reduced. ~~The~~  
 21 ~~commissioner may permit a licensee to substitute another form of security~~  
 22 ~~acceptable to the commissioner for the security effective at the time the~~  
 23 ~~licensee ceases to provide money services in this State.~~

24 (e) [Repealed.]

25 (f) The commissioner may increase the amount of security required to a  
 26 maximum of \$1,000,000 if the financial condition of a licensee so requires,  
 27 as evidenced by reduction of net worth, financial losses, or other relevant  
 28 criteria.

29  
 30 SECTION 5. Arkansas Code § 23-55-205, concerning the issuance of a  
 31 license, is amended to add an additional subsection to read as follows:

32 (e) A license issued under this subchapter expires annually at the  
 33 close of business on December 31 unless the license is:

- 34 (1) renewed according to this subchapter;
- 35 (2) surrendered by the license holder;
- 36 (3) suspended; or

1            (4) revoked by the commissioner.

2  
 3            SECTION 6. Arkansas Code § 23-55-206 is amended to read as follows:  
 4            23-55-206. Renewal of license.

5            (a) A licensee under this subchapter shall pay an annual renewal fee  
 6 of \$750 no later than ~~30 days before the anniversary of the issuance of the~~  
 7 ~~license~~ December 1 for the succeeding calendar year or, if ~~the last day~~  
 8 December 1 is not a business day, on the next business day.

9            (b) A licensee under this subchapter shall submit a renewal report  
 10 with the renewal fee, in a form ~~and in a medium~~ prescribed by the  
 11 commissioner. The renewal report must state or contain:

12            ~~(1) a copy of the licensee's most recent audited annual~~  
 13 ~~financial statement or, if the licensee is a wholly owned subsidiary of~~  
 14 ~~another corporation, the most recent audited consolidated annual financial~~  
 15 ~~statement of the parent corporation or the licensee's most recent audited~~  
 16 ~~consolidated annual financial statement;~~

17            ~~(2) the number and monetary amount of payment instruments and~~  
 18 ~~stored-value sold by the licensee in this State which have not been included~~  
 19 ~~in a renewal report, and the monetary amount of payment instruments and~~  
 20 ~~stored value currently outstanding;~~

21            ~~(3)~~(2) a description of each material change in information  
 22 submitted by the licensee in its original license application which has not  
 23 been reported to the commissioner on any required report;

24            ~~(4)~~(3) a list of the licensee's permissible investments and a  
 25 certification that the licensee continues to maintain permissible investments  
 26 according to the requirements set forth in §§ 23-55-701 and 23-55-702; and

27            ~~(5)~~(4) proof that the licensee continues to maintain adequate  
 28 security as required by § 23-55-204; ~~and.~~

29            ~~(6) a list of the locations in this State where the licensee or~~  
 30 ~~an authorized delegate of the licensee engages in money transmission or~~  
 31 ~~provides other money services.~~

32            ~~(c) If a licensee does not file a renewal report or pay its renewal~~  
 33 ~~fee by the renewal date or any extension of time granted by the commissioner,~~  
 34 ~~the commissioner shall send the licensee a notice of suspension. Unless the~~  
 35 ~~licensee files the report and pays the renewal fee before expiration of 10~~  
 36 ~~days after the notice is sent, the licensee's license is suspended 10 days~~

1 ~~after the commissioner sends the notice of suspension. The suspension must be~~  
2 ~~lifted if, within 20 days after its license is suspended, the licensee:~~  
3 ~~(1) files the report and pays the renewal fee; and~~  
4 ~~(2) pays \$100 for each day after suspension that the~~  
5 ~~commissioner did not receive the renewal report and the renewal fee.~~

6 A licensee that does not comply with subsections (a) and (b) by December 1  
7 shall pay a late fee of \$250 if the complete renewal application is received  
8 before the expiration of the license.

9 (d) The commissioner for good cause may grant an extension of the  
10 renewal date.

11  
12 SECTION 7. Arkansas Code § 23-55-401(a), concerning when a currency  
13 exchange license is required, is amended to read as follows:

14 (a) A person may not engage in currency exchange or advertise,  
15 solicit, or hold itself out as providing currency exchange for which the  
16 person receives revenues equal or greater than five percent of total revenues  
17 unless the person:

- 18 (1) is licensed under this subchapter;
- 19 (2) is licensed for money transmission under § 23-55-201 et  
20 seq., ~~or approved to engage in money transmission under § 23-55-203; or~~
- 21 (3) is an authorized delegate of a person licensed under § 23-  
22 55-201 et seq.; ~~or~~
- 23 ~~(4) is an authorized delegate of a person approved to engage in~~  
24 ~~money transmission under § 23-55-203.~~

25  
26 SECTION 8. Arkansas Code § 23-55-403, concerning the issuance of a  
27 license, is amended to add an additional subsection to read as follows:

- 28 (e) A license issued under this chapter expires at the close of  
29 business on December 31 of the second calendar year unless the license is:  
30 (1) renewed according to this chapter;  
31 (2) surrendered by the license holder;  
32 (3) suspended; or  
33 (4) revoked by the commissioner.

34  
35 SECTION 9. Arkansas Code § 23-55-404 is amended to read as follows:  
36 23-55-404. Renewal of license.

1 (a) A licensee under this subchapter shall pay a biennial renewal fee  
 2 of \$750 no later than ~~30 days before each biennial anniversary of the~~  
 3 ~~issuance of the license~~ December 1 for the succeeding biennium or, if the  
 4 ~~last day December 1~~ is not a business day, on the next business day.

5 (b) A licensee under this subchapter shall submit a renewal report  
 6 with the renewal fee, in a form and in a medium prescribed by the  
 7 commissioner. The renewal report must ~~state or~~ contain:

8 (1) a description of each material change in information  
 9 submitted by the licensee in its original license application that has not  
 10 been reported to the commissioner on any required report; and

11 (2) a list of the locations in this State where the licensee or  
 12 an authorized delegate of the licensee engages in currency exchange,  
 13 including limited stations and mobile locations.

14 (c) ~~If a licensee does not file a renewal report and pay its renewal~~  
 15 ~~fee by the renewal date or any extension of time granted by the commissioner,~~  
 16 ~~the commissioner shall send the licensee a notice of suspension. Unless the~~  
 17 ~~licensee files the report and pays the renewal fee before expiration of 10~~  
 18 ~~days after the notice is sent, the licensee's license is suspended 10 days~~  
 19 ~~after the commissioner sends the notice of suspension. A licensee may renew~~  
 20 a license after the time specified in subsection (a) before the expiration of  
 21 the license by:

22 (1) paying \$750;

23 (2) complying with the requirements in subsection (b); and

24 (3) paying a late fee of \$250 so long as the complete renewal  
 25 application is received.

26 (d) The commissioner for good cause may grant an extension of the  
 27 renewal date.

28  
 29 SECTION 10. Arkansas Code § 23-55-601(c)(2), concerning examination  
 30 fees, is amended to read as follows:

31 (2) In addition to the fee prescribed under subdivision (c)(1)  
 32 of this section, the licensee, applicant, or person subject to licensing  
 33 under this chapter ~~shall~~ may be required to pay the actual hotel and  
 34 traveling expenses of each examiner traveling to and from the office of the  
 35 commissioner while the examiner is conducting the examination.

1 SECTION 11. Arkansas Code § 23-55-603(c), concerning the reporting  
 2 requirements for a money transmission licensee, is amended to read as  
 3 follows:

4 (c) ~~A licensee shall file a report with the commissioner within three~~  
 5 ~~business days after the licensee has reason to know of the occurrence of any~~  
 6 ~~of the following events:~~

7 (1) ~~the filing of a petition by or against the licensee under~~  
 8 ~~the United States Bankruptcy Code, 11 U.S.C. §§ 101-110 (1994 & Supp. V~~  
 9 ~~1999), for bankruptcy or reorganization;~~

10 (2) ~~the filing of a petition by or against the licensee for~~  
 11 ~~receivership, the commencement of any other judicial or administrative~~  
 12 ~~proceeding for its dissolution or reorganization, or the making of a general~~  
 13 ~~assignment for the benefit of its creditors;~~

14 (3) ~~the commencement of a proceeding to revoke or suspend its~~  
 15 ~~license in a State or country in which the licensee engages in business or is~~  
 16 ~~licensed;~~

17 (4) ~~the cancellation or other impairment of the licensee's bond~~  
 18 ~~or other security;~~

19 (5) ~~a charge or conviction of the licensee or of an executive~~  
 20 ~~officer, manager, director, or person in control, of the licensee for a~~  
 21 ~~felony; or~~

22 (6) ~~a charge or conviction of an authorized delegate for a~~  
 23 ~~felony.~~ A money transmission licensee shall file with the commissioner  
 24 within 90 days after the end of the money transmission licensee's fiscal year  
 25 a copy of the money transmission licensee's audited financial statement from  
 26 the most recently completed fiscal year or, if the money transmission  
 27 licensee is a wholly owned subsidiary of another corporation, the  
 28 consolidated audited financial statement of the parent corporation from the  
 29 most recently completed fiscal year, or the money transmission licensee's  
 30 consolidated audited annual financial statement from the most recently  
 31 completed fiscal year.

32  
 33 SECTION 12. Arkansas Code § 23-55-603, concerning reports filed with  
 34 the commissioner, is amended to add an additional subsection to read as  
 35 follows:

36 (d) A licensee shall file a report with the commissioner within 3

1 business days after the licensee has reason to know of the occurrence of the  
2 following events:

3 (1) the filing of a petition by or against the licensee under  
4 the United States Bankruptcy Code, 11 U.S.C. §§ 101-110 (1994 & Supp. V  
5 1999), for bankruptcy or reorganization;

6 (2) the filing of a petition by or against the licensee for  
7 receivership, the commencement of judicial or administrative proceedings for  
8 its dissolution or reorganization, or the making of a general assignment for  
9 the benefit of its creditors;

10 (3) the commencement of a proceeding to revoke or suspend its  
11 license in a state or country that the licensee engages in business or is  
12 licensed;

13 (4) the cancellation or impairment of the licensee's bond or  
14 other security;

15 (5) a charge or conviction of the licensee or of an executive  
16 officer, manager, director, or person in control of the licensee, for a  
17 felony; or

18 (6) a charge or conviction of an authorized delegate for a  
19 felony.

20  
21 SECTION 13. Arkansas Code § 23-55-801(a), concerning suspension and  
22 revocation, is amended to add an additional subdivision to read as follows:

23 (9) the licensee is the subject of an order, including a denial,  
24 suspension, or revocation, by this or any other state or federal authority  
25 that was entered against the person within the past 5 years, including  
26 without limitation the money services industry.

27  
28 SECTION 14. Arkansas Code § 23-55-902 is amended to read as follows:  
29 23-55-902. Hearings.

30 (a) Except as otherwise provided in §§ ~~23-55-206(e), 23-55-404(e), 23-~~  
31 55-803, and 23-55-807, the commissioner may not suspend or revoke a license,  
32 issue an order to cease and desist, suspend or revoke the designation of an  
33 authorized delegate, or assess a civil penalty without notice and an  
34 opportunity to be heard.

35 (b) The commissioner shall also hold a hearing when requested to do so  
36 by an applicant whose application for a license is denied.

SECTION 15. Arkansas Code Title 23, Chapter 55, Subchapter 10 is amended to add an additional section to read as follows:

23-55-1006. Transition Year.

(a) Effective January 1, 2012:

(1) a license for a money transmission issued or renewed under this chapter shall expire on December 31 of each year unless it is terminated by surrender, abandonment, a change of employment, or order of the commissioner; and

(2) a license for a currency exchange issued or renewed under this chapter shall expire on December 31 every 2 years unless it is terminated by surrender, abandonment, a change of employment, or order of the commissioner.

(b) A license in effect on December 31, 2011, that is scheduled to expire during the 2012 calendar year shall continue until the stated expiration date of the license unless it is terminated by surrender, abandonment, a change of employment, or order of the commissioner.

(c) For the transition year 2012:

(1) a license issued or renewed after July 1, 2012, shall be charged 1/2 of the license or renewal fees prescribed in §§ 23-55-202(d) and 23-55-206(a) and 1/4 of the license or renewal fees prescribed by §§ 23-55-402(b) and 23-55-404(a); and

(2) a license issued or renewed during calendar year 2012 shall terminate on December 31, 2012.

**APPROVED: 03/25/2011**