

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 10-0039.01 Jery Payne

HOUSE BILL 10-1114

HOUSE SPONSORSHIP

Liston,

SENATE SPONSORSHIP

Johnston,

House Committees

Business Affairs and Labor
Appropriations

Senate Committees

Business, Labor and Technology
Appropriations

SENATE
Am ended 3rd Reading
March 26, 2010

A BILL FOR AN ACT

101 **CONCERNING THE REGISTRATION OF AGENTS OF PERSONS IN THE**
102 **BUSINESS OF TRANSMITTING MONEY, AND MAKING AN**
103 **APPROPRIATION THEREFOR.**

SENATE
Am ended 2nd Reading
March 25, 2010

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

HOUSE
3rd Reading Unam ended
February 25, 2010

Currently, money transmitters are required to be licensed but their agents are not. The bill requires the registration of money transmitter agents and sets the procedures and requirements for registration, including the following:

HOUSE
Am ended 2nd Reading
February 24, 2010

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

- ! Providing information to the banking board;
- ! Signing a notice of the laws governing money transmission; and
- ! Payment of a fee.

The bill authorizes the banking board to discipline a registrant, including revocation, orders, and fines, for the following:

- ! Fraud in registering;
- ! A conviction for crimes related to money transmission;
- ! Violating the bill or a rule promulgated under the bill;
- ! Failure to pay a fine under the bill; and
- ! Fraud in the business of money transmission.

The bill sets the procedures for discipline, hearings, enforcement, and judicial review. Failing to register is a class 2 misdemeanor or a class 1 misdemeanor for a subsequent violation.

The bill prohibits access to business information contained in the registration except for law enforcement purposes.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 11-102-305 (1) (a) (IV), Colorado Revised Statutes,
 3 is amended, and the said 11-102-305 (1) (a) is further amended BY THE
 4 ADDITION OF A NEW SUBPARAGRAPH, to read:

5 **11-102-305. Records.** (1) (a) Information from the records of the
 6 division shall be revealed only to members of the banking board, except
 7 as follows:

8 (IV) The commissioner may exchange information obtained from
 9 money transmitters and foreign capital depositories with the United States
 10 secretary of the treasury, or the secretary's designees, THE UNITED STATES
 11 ATTORNEY GENERAL, OR THE ATTORNEY GENERAL'S DESIGNEE pertaining
 12 to compliance with federal money laundering and other financial crimes
 13 laws, including, but not limited to, the "Bank Secrecy Act", the "Right to
 14 Financial Privacy Act of 1978", the "Money Laundering Control Act of
 15 1986", and the "Annunzio-Wylie Anti-Money Laundering Act".

16 (V) THE COMMISSIONER MAY EXCHANGE INFORMATION AS

1 PROVIDED BY PART 2 OF ARTICLE 52 OF TITLE 12, C.R.S.

2 SECTION 2. Article 52 of title 12, Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW PART to read:

4 PART 2

5 MONEY TRANSMITTER AGENTS

6 12-52-201. Agent information - rules. (1) A MONEY
7 TRANSMITTER LICENSED PURSUANT TO PART 1 OF THIS ARTICLE SHALL
8 ANNUALLY SEND THE FOLLOWING INFORMATION TO THE BANKING BOARD
9 ON SUCH FORM AS IT MAY PRESCRIBE:

10 (a) THE NAME OF EACH AGENT AND THE ADDRESS AND TELEPHONE
11 NUMBER OF EACH OF THE AGENT'S OFFICES THAT ENGAGE IN THE BUSINESS
12 OF MONEY TRANSMISSION;

13 (b) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF EACH OF
14 THE OWNERS OF THE AGENT HOLDING MORE THAN A TEN PERCENT
15 INTEREST IN THE BUSINESS IF THE AGENT IS A PARTNERSHIP OR AN ENTITY
16 CREATED PURSUANT TO TITLE 7, C.R.S.;

17 (c) THE SERVICES CONCERNING MONEY TRANSMISSION THAT ARE
18 OFFERED BY THE AGENT AND THE LOCATIONS WHERE SUCH SERVICES ARE
19 OFFERED;

20 (d) SUCH OTHER PERTINENT INFORMATION THAT THE BANKING
21 BOARD MAY REQUIRE CONCERNING THE AGENT OR ITS DIRECTORS,
22 TRUSTEES, OFFICERS, MEMBERS, BRANCHES, SUBSIDIARIES, AFFILIATES, OR
23 AGENTS AS PROMULGATED BY RULE.

24 (2) THE BANKING BOARD MAY PROMULGATE RULES NECESSARY TO
25 IMPLEMENT THIS SECTION.

26

27 12-52-202. Applicability. (1) THIS PART 2 DOES NOT APPLY TO

1 AN AGENT OF A BUSINESS LICENSED PURSUANT TO PART 1 OF THIS ARTICLE
2 TO THE EXTENT THAT THE AGENT IS SELLING OR ADDING ADDITIONAL
3 MONEY TO STORED VALUE ISSUED BY THE BUSINESS.

4 (2) FOR PURPOSES OF THIS SECTION, "STORED VALUE" MEANS A
5 CARD, CODE, OR OTHER DEVICE THAT IS ISSUED TO A CONSUMER IN A
6 SPECIFIED DOLLAR AMOUNT, WHICH MAY OR MAY NOT BE INCREASED IN
7 VALUE, AND IS REDEEMABLE AT A SINGLE MERCHANT, AN AFFILIATED
8 GROUP OF MERCHANTS, OR MULTIPLE UNAFFILIATED GROUPS OF
9 MERCHANTS OR USABLE AT AUTOMATED TELLER MACHINES.

10 **12-52-203. Notice of laws.** (1) THE BANKING BOARD SHALL
11 PROMULGATE RULES TO CREATE A FORM CONTAINING A NOTICE OF THE
12 CONTENTS OF SECTION 18-18-408, C.R.S., AND OTHER STATE AND
13 FEDERAL LAWS CONCERNING MONEY LAUNDERING.

14 (2) (a) AN AGENT OF A BUSINESS LICENSED PURSUANT TO PART 1
15 OF THIS ARTICLE SHALL REQUIRE EACH EMPLOYEE WHO PERFORMS MONEY
16 TRANSMISSION SERVICES TO EITHER:

17 (I) UNDERSTAND AND SIGN THE FORM, CREATED UNDER
18 SUBSECTION (1) OF THIS SECTION, AFFIRMING KNOWLEDGE OF THE MONEY
19 LAUNDERING LAWS PRIOR TO THE EMPLOYEE PERFORMING SUCH SERVICES;
20 OR

21 (II) RECEIVE TRAINING THAT COVERS THE MONEY LAUNDERING
22 LAWS WITHIN THIRTY DAYS BEFORE THE EMPLOYEE PERFORMS SUCH
23 SERVICES.

24 (b) THE AGENT SHALL MAINTAIN A RECORD OF EACH EMPLOYEE
25 ALONG WITH THE SIGNED NOTICE OR EVIDENCE OF TRAINING IN
26 COMPLIANCE WITH PARAGRAPH (a) OF THIS SUBSECTION (2) SO LONG AS
27 THE EMPLOYEE PROVIDES SUCH SERVICES. THE RECORDS MAY BE

1 MAINTAINED IN AN ELECTRONIC OR DIGITAL FORMAT THAT REPRODUCES
2 THE SIGNATURE ON THE DOCUMENTS BY THE AGENT.

3 **12-52-204. Records.** THE INFORMATION SENT TO THE BANKING
4 BOARD UNDER SECTION 12-52-201 AND THE RECORDS REQUIRED BY
5 SECTION 12-52-203 SHALL BE OPEN TO ANY LAW ENFORCEMENT OFFICER
6 ACTING WITHIN THE SCOPE AND COURSE OF THE OFFICER'S OFFICIAL
7 DUTIES.

8 **12-52-205. Agent requirements.** (1) NO MONEY TRANSMITTER
9 LICENSED PURSUANT TO PART 1 OF THIS ARTICLE SHALL KNOWINGLY
10 CONTRACT WITH AN AGENT OR OWNER OF AN AGENT HOLDING MORE THAN
11 A TEN PERCENT INTEREST IN THE BUSINESS WHO HAS BEEN CONVICTED OF
12 OR PLEADED GUILTY OR NOLO CONTENDERE TO THE OFFENSES IN ARTICLE
13 5 OF TITLE 18, C.R.S., OR IN SECTION 18-18-408, C.R.S.; A FELONY IN THE
14 SELLING OR ISSUING OF EXCHANGE OR IN MONEY TRANSMISSION; A FELONY
15 INVOLVING A FINANCIAL INSTITUTION; OR AN EQUIVALENT CRIME OUTSIDE
16 COLORADO.

17 (2) NO AGENT OF A MONEY TRANSMITTER LICENSED PURSUANT TO
18 THIS ARTICLE SHALL KNOWINGLY EMPLOY A PERSON TO PERFORM MONEY
19 TRANSMISSION SERVICES WHO HAS BEEN CONVICTED OF OR PLEADED
20 GUILTY OR NOLO CONTENDERE TO THE OFFENSES IN ARTICLE 5 OF TITLE 18,
21 C.R.S., OR IN SECTION 18-18-408, C.R.S.; A FELONY IN THE SELLING OR
22 ISSUING OF EXCHANGE OR IN MONEY TRANSMISSION; A FELONY INVOLVING
23 A FINANCIAL INSTITUTION; OR AN EQUIVALENT CRIME OUTSIDE
24 COLORADO.

25 **12-52-206. Violations.** (1) A PERSON WHO VIOLATES THIS PART
26 2 COMMITS A CLASS 2 MISDEMEANOR AND, FOR THE SECOND OR ANY
27 SUBSEQUENT OFFENSE, THE PERSON COMMITS A CLASS 1 MISDEMEANOR

1 AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501, C.R.S.

2 (2) A PERSON WHO ACTS AS AN AGENT OF AN UNLICENSED PERSON
3 REQUIRED TO BE LICENSED BY PART 1 OF THIS ARTICLE KNOWING THE
4 UNLICENSED PERSON DOES NOT HOLD SUCH LICENSE COMMITS A CLASS 2
5 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION
6 18-1.3-501, C.R.S.

7 **SECTION 3. Appropriation.** In addition to any other
8 appropriation, there is hereby appropriated, out of any moneys in the
9 division of banking cash fund created in section 11-102-403, Colorado
10 Revised Statutes, not otherwise appropriated, to the department of
11 regulatory agencies, for allocation to the division of banking, for the
12 fiscal year beginning July 1, 2010 , the sum of twenty-three thousand one
13 hundred twenty-four dollars (\$23,124) cash funds and 0.5 FTE, or so
14 much thereof as may be necessary, for the implementation of this act.

15 **SECTION 4. Specified effective date - applicability.** This act
16 shall take effect July 1, 2010, and shall apply to acts committed on or
17 after said date.

18 **SECTION 5. Safety clause.** The general assembly hereby finds,
19 determines, and declares that this act is necessary for the immediate
20 preservation of the public peace, health, and safety.