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SENATE BILL 17-226

BY SENATOR(S) Kagan, Cooke, Gardner, Guzman, Holbert, Crowder, Martinez Humenik, Tate;
also REPRESENTATIVE(S) Foote, Herod, Lee, Willett, Wist, Arndt, Pettersen, Van Winkle.

CONCERNING THE NONSUBSTANTIVE RELOCATION OF LAWS RELATED TO
THE REGULATION OF FINANCIAL INSTITUTIONS FROM TITLE 12,
COLORADO REVISED STATUTES, AS PART OF THE ORGANIZATIONAL
RECODIFICATION OF TITLE 12.

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

SECTION 1. In Colorado Revised Statutes, **add with amended and relocated provisions** article 49 to title 11 as follows:

ARTICLE 49
Life Care Institutions

11-49-101. [Formerly 12-13-101] Definitions. As used in this ~~article~~ ARTICLE 49, unless the context otherwise requires:

(1) "Aged person" means any person sixty-two years of age or older.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

~~(1.5)~~ (2) "Board" means the financial services board created in section 11-44-101.6. ~~C.R.S.~~

~~(2)~~ (3) "Commissioner" means the state commissioner of financial services, serving in accordance with section 11-44-102. ~~C.R.S.~~

~~(3)~~ (4) "Entrance fee" means the total of any initial or deferred transfer to or for the benefit of a provider of a sum of money or other property made or promised to be made as full or partial consideration for the acceptance or maintenance of a specified individual as a resident in a facility.

~~(4)~~ (5) "Facility" means the place in which a provider undertakes to provide life care to a resident.

~~(5)~~ (6) "Life care" means care provided, pursuant to a life care contract, for the life of an aged person, including but not limited to services such as health care, medical services, board, lodging, or other necessities.

~~(6)~~ (7) "Life care contract" means a written contract to provide life care to a person for the duration of ~~such~~ THE person's life conditioned upon the transfer of an entrance fee to the provider of ~~such~~ THE services in addition to or in lieu of the payment of regular periodic charges for the care and services involved. Any life care contract payable to or for the provider in four or more installments shall be subject to the provisions of the "Uniform Consumer Credit Code", articles 1 to 9 of title 5. ~~C.R.S.~~

~~(7)~~ (8) "Living unit" means a room, apartment, or other area within a facility set aside for the exclusive use or control of one or more identified residents.

~~(8)~~ (9) "Person" means all corporations, associations, partnerships, or individuals, including fraternal or benevolent orders or societies.

~~(9)~~ (10) "Provider" means a person who undertakes to provide services in a facility pursuant to a life care contract.

~~(10)~~ (11) "Resident" means any person entitled pursuant to a life care contract to receive life care in a facility.

~~(11)~~ (12) "Third-party service providers" means any person, other than a provider, who is the holder of a management contract with a provider or who contracts with a provider to provide life care services to residents.

11-49-102. [Formerly 12-13-104] Escrow account for entrance fees. (1) Each provider shall establish an escrow account ~~which~~ THAT provides that all of any entrance fee received by the provider prior to the date the resident is permitted to occupy his or her living unit in the facility be placed in escrow with a bank, trust company, or other licensed corporate escrow agent located in Colorado and approved by the commissioner, subject to the condition that ~~such~~ THE funds may be released only as follows:

(a) If the entrance fee applies to a living unit ~~which~~ THAT has been previously occupied in the facility, the entrance fee shall be released to the provider at such time as the living unit becomes available for occupancy by the new resident and is in compliance with local government regulations applicable to living units, as certified by the provider.

(b) If the entrance fee applies to a living unit ~~which~~ THAT has not previously been occupied by any resident, the entrance fee shall be released to the provider at such time as the commissioner is satisfied that all of the following conditions exist:

(I) Construction or purchase of the facility has been substantially completed, and an occupancy permit covering the living unit has been issued by the local government having authority to issue ~~such~~ THE permits;

(II) A commitment has been received by the provider for any permanent mortgage loan or other long-term financing described in the statement of anticipated source and application of funds submitted by the provider and any conditions of the commitment prior to disbursement of funds thereunder have been substantially satisfied;

(III) Aggregate entrance fees received or receivable by the provider pursuant to binding life care contracts, plus the anticipated proceeds of any first mortgage loan or other long-term financing commitment, are equal to not less than ninety percent of the aggregate cost of constructing, equipping, and furnishing, or purchasing the facility and not less than

ninety percent of the funds estimated in the statement of anticipated source and application of funds submitted by the provider to be necessary to fund start-up losses and assure full performance of the obligations of the provider pursuant to life care contracts.

(2) If the funds in an escrow account required to be established under subsection (1) of this section are not released within such time as provided by rules ~~and regulations~~ issued by the commissioner, then ~~such~~ THE funds shall be returned by the escrow agent to the persons who had made payment to the provider.

(3) An entrance fee held in escrow may be returned by the escrow agent to the person or persons who had made payment to the provider at any time upon receipt by the escrow agent of notice from the provider that ~~such~~ THE person is entitled to a refund of the entrance fee.

(4) Nothing in this section shall be interpreted as requiring the escrow of any nonrefundable application fee designated as such in the life care contract received by the provider from a prospective resident.

11-49-103. [Formerly 12-13-105] Withdrawal or dismissal of person - refund. (1) If the agreement permits withdrawal or dismissal of the resident from the life care institution prior to the expiration of the agreement, with or without cause, an amount equal to the difference between the amount paid in and the amount used for the care of the resident during the time he OR SHE remained in the institution, based upon the per capita cost to the institution as determined in a manner acceptable to the commissioner, shall be refunded to the resident; but in cases where a consideration greater than the minimum charge has been paid for accommodations above standard, a sum equal to the difference between the amount paid in and the ratio of the amount paid to the minimum consideration for standard accommodations times the current per capita cost to the institution applied to the period the resident remained in the institution shall be refunded to the resident. If the per capita cost to the institution during the period cannot be established otherwise, the cost during the period shall be deemed to be the cost at the time of the withdrawal or dismissal. For refund purposes "cost" shall include a reasonable profit to the provider.

(2) If the provider is an organization described in section 501 (c)(3)

of the federal "Internal Revenue Code of 1986", as amended, and exempt from income taxation under section 501 (a) of the federal "Internal Revenue Code of 1986", as amended, it shall be entitled to make A refund according to a schedule provided in its agreement with the resident so long as ~~such~~ THE schedule provides for amortization of the amount paid by ~~such~~ THE resident over a period of not less than sixty months or over the life expectancy of the resident if ~~such~~ THE expectancy is less than sixty months. In such case, the refund may be delayed for a reasonable period thereafter until the securing by the provider of a substitute fee from another resident or prospective resident. The provider may also deduct from any such refund amounts due it from the resident for damage done or for any other legitimate offsetting item.

11-49-104. [Formerly 12-13-106] Recording of lien by commissioner. (1) The commissioner shall record with the county clerk and recorder of any county a notice of lien on behalf of all residents who enter into life care contracts with a provider to secure performance of the provider's obligations to residents pursuant to life care contracts. All reasonable costs of recording ~~such~~ THE lien shall be paid by the provider.

(2) From the time of ~~such~~ THE recording, there exists a lien for an amount equal to the reasonable value of services to be performed under a life care contract in favor of each resident on the land and improvements owned by the provider, not exempt from execution, ~~which~~ THAT are listed in the notice of lien filed pursuant to subsection (3) of this section and ~~which~~ THAT are located in the county in which the notice of lien is recorded.

(3) The lien shall be perfected by the commissioner by executing by affidavit the notice and claim of lien, which shall contain:

(a) The legal description of the lands and improvements to be charged with a lien;

(b) The name of the owner of the property affected;

(c) A statement providing that the lien has been filed by the commissioner pursuant to this section.

(4) The lien may be foreclosed by civil action.

(5) Any number of persons claiming liens against the same property pursuant to this section may join in the same action. If separate actions are commenced, the court may consolidate ~~such~~ THE actions. The court shall, as part of the costs, allow reasonable attorney fees for each claimant who is a party to the action.

(6) In a civil action filed pursuant to this section, the judgment shall be given in favor of each resident having a lien who has joined in the foreclosure action for the amount equal to the reasonable value of services to be performed under a life care contract in favor of each resident. The court shall order the sheriff to sell any property subject to the lien at the time judgment is given, in the same manner as real and personal property is sold on execution. The lien for the reasonable value of services to be performed under a life care contract shall be on equal footing with claims of other residents. If a sale is ordered and the property sold and the proceeds of the sale are not sufficient to discharge all liens of residents against the property, the proceeds shall be prorated among the respective residents.

(7) The liens provided for in this section are preferred to all liens, mortgages, or other encumbrances upon the property attaching subsequently to the time the lien is recorded and are preferred to all unrecorded liens, mortgages, and other encumbrances. The amount secured by any lien having priority to the lien filed pursuant to this section may not be increased without prior approval of the commissioner.

(8) The commissioner shall file a release of the lien upon proof of complete performance of all obligations to residents pursuant to life care contracts.

(9) The commissioner may subordinate any lien filed pursuant to this section to the lien of a first mortgage or other long-term financing obtained by the provider, regardless of the time at which the subsequent lien attaches.

11-49-105. [Formerly 12-13-107] Reserve requirements. (1) Any provider shall maintain reserves covering obligations under all life care agreements. The reserves shall be equivalent to the sum of the following:

(a) (I) For those debt obligations that are collateralized by the

provider's facility and that require a balloon payment, the amount of interest due and payable or accrued in the next eighteen months.

(II) For purposes of this ~~paragraph (a)~~ SUBSECTION (1)(a), any amounts held in reserve or escrow to fulfill debt agreements shall be considered eligible to meet the requirements of this ~~paragraph (a)~~ SUBSECTION (1)(a).

(b) (I) For all other debt obligations that are collateralized by the provider's facility, an amount equal to the next twelve months' principal and interest.

(II) For purposes of this ~~paragraph (b)~~ SUBSECTION (1)(b), any amounts held in reserve or escrow to fulfill debt agreements shall be considered eligible to meet the requirements of this ~~paragraph (b)~~ SUBSECTION (1)(b).

(c) (I) An amount not less than twenty percent of the facility's operating expenses for the immediately preceding year.

(II) For purposes of this ~~paragraph (c)~~ SUBSECTION (1)(c), "operating expenses":

(A) Includes all expenses of the facility, except interest included in ~~paragraphs (a) and (b)~~ SUBSECTIONS (1)(a) AND (1)(b) of this ~~subsection (1)~~ SECTION and depreciation or amortization expenses; and

(B) Means budgeted expenses pursuant to a budget approved by the governing board of the provider, for providers in operation less than twelve months.

(2) The reserves shall consist of the following:

(a) Savings accounts or certificates of deposit in state or national banks located in this state ~~which~~ THAT are members of the federal deposit insurance corporation or any successor agency thereto;

(b) Savings accounts or savings certificates in state or federal savings or loan associations located in this state ~~which~~ THAT are members of the federal deposit insurance corporation or any successor agency

thereto;

(c) Notes receivable from residents to the extent of the portion due and payable within twelve months;

(d) Bonds and stocks selected from an approved list, as determined by the commissioner. If stocks, bonds, and securities that are not on the approved list are part of the reserves, and if they are to be retained as part of the reserves, it shall not be necessary that ~~such~~ THE unapproved stocks, bonds, and securities be disposed of immediately, but they shall be disposed of in accordance with rules promulgated pursuant to this ~~article~~ ARTICLE 49, which disposal shall be accomplished in a gradual manner so as to avoid loss to providers. Securities ~~which~~ THAT, although not on the approved list, should be retained in the reserve for reasons acceptable to the commissioner may be retained with the specific approval of the commissioner. Investments in stocks and bonds will be valued at their fair market value.

~~(e) (Deleted by amendment, L. 95, p. 150, § 1, effective April 7, 1995.)~~

~~(f) (I) (e) (I) Except as provided in subparagraph (H) of this paragraph (f) SUBSECTION (2)(e)(II) OF THIS SECTION, accounts receivable with respect to life care contracts that are:~~

(A) Not considered past due by the provider if owed to the provider by a natural person;

(B) Due from the United States or any agency thereof, any state in the United States or any agency thereof, or any institution, pension fund, or trust fund from which collection is reasonably assured.

(II) Accounts receivable that are eligible under this ~~paragraph (f)~~ SUBSECTION (2)(e) may be used to fulfill no more than fifty percent of the provider's total reserve requirement.

~~(g) and (h) (Deleted by amendment, L. 95, p. 150, § 1, effective April 7, 1995.)~~

~~(i) (f) Investment certificates or shares in open-end investment trusts~~

whose management has been managing a mutual fund registered under the federal "Investment Company Act of 1940", 15 U.S.C. SECS. 80a-1 TO 80a-64, or whose management has been registered as an investment adviser under the federal "Investment Advisers Act of 1940", 15 U.S.C. SECS. 80b-1 TO 80b-21, and in either case currently has at least one hundred million dollars under its supervision, is qualified for sale in Colorado, has at least forty percent of its directors or trustees not affiliated with the fund's management company or principal underwriter or any of their affiliates, is registered under the federal "Investment Company Act of 1940", and is a fund listed as qualifying under rules maintained by the secretary of state in cooperation with the division of insurance.

~~(3) (Deleted by amendment, L. 95, p. 150, § 1, effective April 7, 1995.)~~

~~(4)~~ (3) Any person or organization ~~which~~ THAT entered into life care contracts prior to January 1, 1974, but ~~which~~ THAT was not required prior to ~~such~~ THAT date to obtain a license is not required to maintain reserves covering obligations assumed under any such contract entered into prior to January 1, 1974.

~~(5) (Deleted by amendment, L. 95, p. 150, § 1, effective April 7, 1995.)~~

11-49-106. [Formerly 12-13-108] Annual report by providers - fee. (1) Each provider shall file an annual report with the commissioner within ninety days after the end of its fiscal year that contains the certified financial statements for each facility and such other information as may be required by the commissioner. The annual report shall be made in a form prescribed by the commissioner.

(2) A provider shall amend its annual report on file with the commissioner if an amendment is necessary to prevent the report from containing a material misstatement of fact or omission of a material fact.

(3) A provider shall make its annual report available to residents upon request.

(4) The failure to file an annual report within the time prescribed in subsection (1) of this section shall constitute a violation of this ~~article~~

ARTICLE 49.

11-49-107. [Formerly 12-13-110] Examination - fees. The commissioner may conduct an examination of the affairs of any provider as often as the commissioner deems it necessary for the protection of the interests of the people of this state. Providers shall maintain copies of their books and records in Colorado to provide access for the purposes of this ~~article~~ ARTICLE 49. The commissioner shall assess each provider at least semiannually, to cover the annual direct and indirect costs of examinations, supervision, and administration conducted pursuant to the provisions of this section. ~~Such~~ THE assessments shall be calculated in terms of cents per thousand dollars of total escrowed entrance fees and reserves maintained. The assessment calculation, or ratio of the assessment charged to total escrowed entrance fees and reserves maintained, shall be alike in all cases. On or before the dates specified by the commissioner, each association shall pay its assessment. If deemed necessary, the commissioner may estimate a per diem rate to be charged for examinations and charge a provider for the actual cost of any examination documented by the commissioner.

11-49-108. [Formerly 12-13-111] Rules. The board may promulgate reasonable rules in accordance with article 4 of title 24 ~~C.R.S.~~, for effectuating any provision of this ~~article~~ ARTICLE 49.

11-49-109. [Formerly 12-13-112] Violation. Any person acting in the capacity of a provider who enters into a life care contract, or extends the term of an existing life care contract, without acting in compliance with the provisions of this ~~article~~ ARTICLE 49 is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than ten thousand dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

11-49-110. [Formerly 12-13-113] Article does not apply to facilities licensed by department of public health and environment. The provisions of this ~~article~~ ARTICLE 49 shall not apply to any hospital or other facility that the department of public health and environment is authorized to license pursuant to part 1 of ~~article 1~~ ARTICLE 1.5 and part 1 of article 3 of title 25; ~~C.R.S.~~; except that nursing care facilities and assisted living residences that are part of the facility of a provider as defined in section ~~12-13-101~~ 11-49-101 shall be subject to the provisions of this ~~article~~

ARTICLE 49.

11-49-111. [Formerly 12-13-114] Life care contract - content.

(1) Each life care contract shall be written in a clear and coherent manner using words with common and everyday meanings and shall:

(a) Show the value of all property transferred, including but not limited to donations, subscriptions, fees, and any other amounts initially paid or payable by or on behalf of the prospective resident;

(b) Show all the services ~~which~~ THAT are to be provided by the provider to the prospective resident, including, in detail, all items ~~which~~ THAT the prospective resident will receive, such as board, room, clothing, incidentals, medical care, transportation, and burial, and whether the items will be provided for a designated time period or for life and the monthly charge for ~~such~~ THE services;

(c) Be accompanied by a financial statement showing in reasonable detail the financial condition of the provider, including a statement of earnings for the previous twenty-four-month period, or such shorter period if the facility has been in operation for a lesser period, ~~which~~ THAT shall be furnished to the prospective resident;

(d) Specify the monthly service fee and whether ~~such~~ THE fee is subject to adjustment;

(e) Explicitly state what rights, if any, a resident will have to participate either individually or as part of a group of residents in management and financial decisions affecting the facility.

~~(f) Repealed.~~

~~(2) Repealed.~~

11-49-112. [Formerly 12-13-115] Register. (1) Every provider shall maintain a register setting forth the following facts concerning each person residing in the life care institution:

(a) Name;

- (b) Last previous address;
- (c) Age;
- (d) Nearest of kin, if any;
- (e) Mother's maiden name;
- (f) The person responsible for each resident's care and maintenance;
- (g) Such other data as the commissioner may reasonably require.

11-49-113. [Formerly 12-13-116] Advertisements and solicitations of life care contracts - requirements. Any report, circular, public announcement, certificate, or financial statement, or any other printed matter or advertising material ~~which~~ THAT is designed for or used to solicit or induce persons to enter into any life care contract, and ~~which~~ THAT lists or refers to the name of any individual or organization as being interested in or connected with the person, association, or corporation to perform the contract, shall clearly state the extent of financial responsibility assumed by that individual or organization for the person, association, or corporation and the fulfillment of its contracts.

11-49-114. [Formerly 12-13-117] Injunction against violations - prosecution. (1) The commissioner may bring an action, through the attorney general, to enjoin the threatened violation or continued violation of the provisions of this ~~article~~ ARTICLE 49 or of any of the rules promulgated pursuant to this ~~article~~ ARTICLE 49, in the district court for the county in which the violation occurred or is about to occur. Any proceeding under the provisions of this section shall be subject to the Colorado rules of civil procedure; except that the commissioner shall not be required to allege facts necessary to show or tending to show the lack of an adequate remedy at law or to show or tending to show irreparable damage or loss. The court may award the attorney general all costs incurred in bringing any action under this section.

(2) Upon application by the commissioner, the attorney general or the district attorney of any judicial district in this state shall institute and prosecute an action for the criminal violation of any provision of this ~~article~~ ARTICLE 49.

11-49-115. [Formerly 12-13-118] Local regulations. The provisions of this ~~article~~ ARTICLE 49 shall not prevent local authorities of any county, city, town, or city and county, within the reasonable exercise of the police power, from adopting rules, by ordinance or resolution, prescribing standards of sanitation, health, and hygiene for facilities ~~which~~ THAT are not in conflict with the provisions of this ~~article~~ ARTICLE 49 or the rules adopted by the commissioner pursuant thereto, and requiring a local health permit for the maintenance or conduct of any such facility within ~~such~~ THE county, city, town, or city and county.

SECTION 2. In Colorado Revised Statutes, **add with amended and relocated provisions** article 110 to title 11 as follows:

ARTICLE 110
Money Transmitters

PART 1
GENERAL PROVISIONS

11-110-101. [Formerly 12-52-101] Short title. THE SHORT TITLE OF this ~~article~~ shall be known and may be cited as ARTICLE 110 IS the "Money Transmitters Act".

11-110-102. [Formerly 12-52-102] Legislative declaration. It is declared to be the policy of this state that checks, drafts, money orders, or other instruments for the transmission or payment of credit or money are widely used by the people of this state as a process of settling accounts or debts and that sellers and issuers of ~~such~~ THE instruments receive, in the aggregate, large sums of money from the people of this state and it is therefore imperative that the integrity, experience, and financial responsibility and reliability of those engaged in the various types of businesses dealing in ~~such~~ THE instruments be above reproach. In order that the people of this state may be safeguarded from default in the payment of these instruments, it is necessary that proper regulatory authority be established through the banking board. Any person who sells or issues ~~such~~ THE instruments without complying with the provisions of this ~~article~~ ARTICLE 110 endangers the public interest.

11-110-103. [Formerly 12-52-103] Definitions. As used in this ~~article~~ ARTICLE 110, unless the context otherwise requires:

(1) "Banking board" or "board" means the banking board created in section 11-102-103. ~~C.R.S.~~

~~(1.5)~~ (2) "Commissioner" means the state bank commissioner appointed and serving pursuant to section 11-102-101 (2). ~~C.R.S.~~

~~(1.6)~~ (3) "Control" means:

(a) Ownership of, or the power to vote, directly or indirectly, twenty-five percent or more of a class of voting securities or voting interests of a licensee, applicant, or person in control of a licensee or applicant;

(b) The power to elect a majority of executive officers, managers, directors, trustees, or other persons exercising managerial authority of a licensee, applicant, or person in control of a licensee or applicant; or

(c) The power to exercise, directly or indirectly, a controlling influence over the management or policies of a licensee, applicant, or person in control of a licensee or applicant.

~~(1.7)~~ (4) "Engagement letter" means a letter that sets the scope and terms of an independent audit.

~~(2)~~ (5) "Exchange" means any check, draft, money order, or other instrument for the transmission or payment of money or credit. It does not mean money or currency of any nation.

~~(2.5)~~ (6) "Executive officer" means a president, chief executive officer, chairperson of an executive committee, responsible individual, or chief financial officer of a licensee, and any other person who performs similar functions.

~~(3)~~ (7) "Issuing" means the act of drawing any instrument of exchange by a person who engages in the business of drawing ~~such~~ THE instruments as a service or for a fee or other consideration.

~~(4)~~ (8) "Licensee" means any person duly licensed by the banking board pursuant to the provisions of this ~~article~~ ARTICLE 110.

~~(4.1)~~ (9) "Management letter" means a letter, written by the auditor to the management of a licensee, reporting the auditor's findings and suggestions resulting from an independent audit.

~~(4.2)~~ (10) "Managing official" means a person who has significant oversight duties over a licensee or applicant as determined by the board.

~~(4.3)~~ (11) "Money transmission" means the sale or issuance of exchange or engaging in the business of receiving money for transmission or transmitting money within the United States or to locations abroad by any and all means including but not limited to payment instrument, wire, facsimile, or electronic transfer.

~~(4.5)~~ (12) "Outstanding payment instrument" means any exchange sold or issued by a licensee or any exchange issued by the licensee ~~which~~ THAT has been sold by an agent of the licensee in the United States, ~~which~~ THAT has been reported to the licensee as having been sold, and ~~which~~ THAT has not yet been paid by or for the licensee.

~~(4.7)~~ (13) "Owner" means a person with an ownership interest in a licensee or applicant that is a sole proprietorship or partnership.

~~(5)~~ (14) "Person" means any natural person, firm, association, partnership, registered limited liability partnership, syndicate, joint stock company, unincorporated company or association, limited liability company, common law trust, or any corporation organized under the laws of the United States or of any state or territory of the United States or of any foreign country.

~~(6)~~ (15) "Principal member" means a person who has a significant ownership interest in a licensee or applicant that is an association, trust, or limited liability company or similar entity, as determined by the board.

~~(7)~~ (16) "Principal shareholder" means a person who has a significant ownership interest in a corporate licensee or applicant.

~~(8)~~ (17) "Significant ownership interest" means an ownership interest that causes the owner to have significant control of a licensee or applicant as determined by the board.

11-110-104. [Formerly 12-52-103.5] Applicability of powers of banking board and bank commissioner to money orders. The powers, duties, and functions of the banking board and the commissioner contained in article 102 of THIS title 11 ~~C.R.S.~~, and the declaration of policy contained in section 11-101-102 ~~C.R.S.~~, shall apply to the provisions of this ~~article~~ ARTICLE 110. For the purposes of this section and section 11-102-104, ~~C.R.S.~~, the banking board shall have the same powers, duties, and functions concerning a violation of this ~~article~~ ARTICLE 110 or a rule issued pursuant to this ~~article~~ ARTICLE 110 as the board has concerning a violation of the "Colorado Banking Code", a statute, or a rule issued pursuant to that code.

11-110-105. [Formerly 12-52-104] License required - investigations. (1) A person shall not engage in the business of money transmission without first procuring a license from the board; except that an agent, subagent, or representative of a licensee or an employee of an agent, subagent, or representative who acts on behalf of a licensee in the transmission of money by the licensee is not required to be licensed under this ~~article~~ ARTICLE 110.

(2) The board may investigate any person believed to be engaging in the business of money transmission without a valid license required under this section.

11-110-106. [Formerly 12-52-105] Exemptions. Nothing in this ~~article~~ ARTICLE 110 shall apply to: Departments or agencies of the United States of America, or to any state or municipal government, or to corporations organized under the general banking, savings and loan, or credit union laws of this state or of the United States, or to the receipt of money by an incorporated telegraph or cable company at any office or agency thereof for immediate transmission by telegraph or cable.

11-110-107. [Formerly 12-52-106] Application for license. (1) Application for a license shall be made in writing, under oath, to the banking board on such form as it may prescribe. The application shall:

(a) State the name of the applicant and the address of his OR HER principal office;

(b) Contain evidence that the applicant possesses qualifications and

experience as required by the banking board pursuant to rule. If the applicant is a joint stock association, common law trust, unincorporated company or association, limited liability company, or corporation, the secretary or any assistant secretary thereof shall certify the name and address of each of the officers, directors, trustees, or other managing officials together with a designation of the office or offices held by each and evidence that each ~~such~~ individual possesses the qualifications and experience required by the banking board pursuant to rule and shall submit ~~such~~ THE certificate to the banking board with the application.

(c) State the date and place of incorporation;

(d) If the applicant has one or more branches, subsidiaries, affiliates, agents, or other locations at or through which the applicant proposes to engage in the business of issuing checks, drafts, money orders, or other instruments for the transmission or payment of money or credit, state the name and address of each such location;

~~(d.5)~~ (e) Contain a set of fingerprints for each of the owners, principal shareholders, principal members, directors, trustees, officers, or other managing officials. The commissioner shall forward the fingerprints to the Colorado bureau of investigation for the purpose of obtaining a fingerprint-based criminal history record check. Upon receipt of fingerprints and payment for the costs, the Colorado bureau of investigation shall conduct a state and national fingerprint-based criminal history record check utilizing records of the Colorado bureau of investigation and the federal bureau of investigation. The board shall be the authorized agency to receive information regarding the result of any national criminal history record check. Only the actual costs of ~~such~~ THE record check shall be borne by the applicant.

~~(e)~~ (f) Contain such other data, financial statements, and pertinent information as the banking board may require from time to time with respect to the applicant or its directors, trustees, officers, members, branches, subsidiaries, affiliates, or agents.

(2) Each application for a license shall be accompanied by financial statements of the applicant and a bond in the form and the amount specified in this ~~article~~ ARTICLE 110.

11-110-108. [Formerly 12-52-107] Bond - condition - amount - rules. (1) (a) Each approved applicant shall furnish a corporate surety bond in the principal sum of one million dollars, except as otherwise provided in this subsection (1), by a bonding company or insurance company authorized to do business in this state, in which the applicant is named as obligor, to be approved by the banking board, ~~which~~ THAT shall run to the state of Colorado for the use and benefit of the state and of any creditor of the licensee for any liability incurred on any exchange issued by the licensee. The bond shall be conditioned that the obligor will faithfully conform to and abide by the provisions of this ~~article~~ ARTICLE 110 and will honestly and faithfully apply all funds received for the performance of all obligations and undertakings for exchange issued and sold under this ~~article~~ ARTICLE 110 and will pay to the state and to any person all money that becomes due and owing to the state or to ~~such~~ THE person under the provisions of this ~~article~~ ARTICLE 110 because of any exchange sold or issued by ~~such~~ THE licensee. The bond shall remain in force and effect until the surety is released from liability by the banking board or until the bond is cancelled by the surety, which cancellation may be had only upon ninety days' written notice to the banking board. ~~Such~~ THE cancellation shall not affect any liability incurred or accrued prior to the termination of the ninety-day period. If the banking board finds, at any time, any bond to be exhausted, a replacement bond in an equal amount shall be filed by the licensee within thirty days after written demand therefor.

(b) The banking board shall by rule establish financial standards by which to evaluate the financial condition or solvency of licensees and for the bond amount set under ~~paragraph (a) of this subsection (1)~~ SUBSECTION (1)(a) OF THIS SECTION to be decreased to not less than two hundred fifty thousand dollars, following application by the licensee and an opportunity for hearing before the banking board, in such amounts as necessary up to the amount provided in ~~paragraph (a) of this subsection (1)~~ SUBSECTION (1)(a) OF THIS SECTION to protect purchasers of exchange.

(c) The banking board shall by rule establish financial standards by which to evaluate the financial condition or solvency of licensees and for the bond amount to be increased above the amount provided in ~~paragraph (a) of this subsection (1)~~ SUBSECTION (1)(a) OF THIS SECTION if the banking board determines, following notice to the licensee and an opportunity for hearing before the banking board, that the customers of ~~such~~ THE licensees are at undue risks, but in no case shall the total bond required of a licensee

be greater than two million dollars. In promulgating ~~such~~ THE rules, the banking board shall utilize and adopt generally accepted accounting principles for the evaluation and determination of the financial condition of licensees.

(2) (a) In lieu of the surety bond required by subsection (1) of this section, the licensee may deposit with the board securities with a par value equal to the amount of the surety bond.

(b) Securities under this subsection (2) must be rated in one of the three highest grades as defined by a nationally recognized organization that rates securities and must consist of:

(I) General obligations of, or securities fully guaranteed by, the United States of America or any agency or instrumentality of or corporation wholly owned by the United States of America directly or indirectly; or

(II) Direct general obligations of the state of Colorado, or of any county, town, city, village, school district, or other political subdivision or municipal corporation of the state of Colorado.

(c) The board shall hold the securities to secure the same obligations as would any surety bond required by this ~~article~~ ARTICLE 110. The licensee may exchange the securities so deposited from time to time for other securities that qualify under this subsection (2) upon written notification to, and written approval by, the commissioner. All of the securities are subject to sale and transfer, and the board may dispose of the proceeds only on the order of a court of competent jurisdiction. The licensee is entitled to receive the interest or dividends on the securities unless prohibited by a court of competent jurisdiction. The board may provide for custody of the securities by any qualified trust company or bank located in the state of Colorado. The depositing licensee shall pay the compensation of any person acting as custodian under this section.

(3) In addition to the bond required under subsection (1) of this section, the commissioner, pursuant to rules promulgated by the banking board, may require a licensee to possess investments having an aggregate market value at least equal to the amount of outstanding payment instruments issued or sold by the licensee. For the purposes of this subsection (3), permissible investments shall be:

- (a) Cash;
- (b) Certificates of deposit or other debt obligations of a financial institution, either domestic or foreign;
- (c) Bills of exchange or time drafts drawn on and accepted by federally insured financial depository institutions;
- (d) Any investment bearing a rating of one of the three highest grades as defined by a nationally recognized organization that rates such securities;
- (e) Investment securities that are obligations of the United States, its agencies or instrumentalities, or obligations that are guaranteed fully as to principal and interest of the United States, or any obligations of any state, municipality, or any political subdivision thereof;
- (f) Shares in a money market mutual fund, interest-bearing bills or notes or bonds, debentures, or stock traded on any national securities exchange or on a national over-the-counter market;
- (g) Such other investments as may be approved by the banking board.

(4) It is the intent of the general assembly that in applying the provisions of this section the purpose of the required bond and permissible investments is to protect the Colorado purchasers of exchange, and the amount of the bond and investments that are required of any licensee should not be more than is necessary to afford ~~such~~ THE protection given the financial condition of the licensee as determined under generally accepted accounting principles.

(5) Permissible investments, even if commingled with other assets of the licensee, shall be deemed by operation of law to be held in trust for the benefit of the purchasers and holders of the licensee's outstanding payment instruments in the event of the bankruptcy of the licensee.

11-110-109. [Formerly 12-52-108] Issuance of license. (1) Upon the filing of an application, the commissioner shall investigate the applicant. The applicant shall pay for the cost of the investigation. If the

board finds that the applicant is of good moral character and financially responsible and can comply with this ~~article~~ ARTICLE 110, the board shall approve the application and notify the applicant in writing that its approval expires six months after the approval date. Once the approved applicant has notified the board that he or she is prepared to commence operations in Colorado, posted the required bond, and paid the license fee, the board shall issue to the applicant a license to engage in the business of money transmission subject to this ~~article~~ ARTICLE 110.

(2) No license shall be issued to an applicant, if a natural person, unless he OR SHE is over twenty-one years of age; or if a partnership or syndicate, unless each of the partners is over twenty-one years of age; or if a joint stock association, common law trust, unincorporated company or association, or corporation, unless each of the officers, directors, trustees, or other managing officials is over twenty-one years of age.

(3) If the board denies an application, the board shall, within thirty days thereafter, prepare and file in its office a written order of denial, which must contain the board's findings and reasons supporting the denial and, within ten days after filing the order, the board shall notify the applicant and send him or her a copy of the order. The applicant may request a hearing by the board by submitting a written request to the board within sixty days after receiving notice as specified in section 24-4-104 (9) ~~C.R.S.~~, and if so requested the board shall hold a hearing as specified in section 24-4-105. ~~C.R.S.~~

(4) A license shall not be issued to an applicant if an owner, principal shareholder, principal member, director, trustee, officer, or other managing official:

(a) Submitted a license application under this ~~article~~ ARTICLE 110 that was false or misleading as a result of an untrue statement of a material fact or an omission to state a material fact unless the applicant did not know, and in the exercise of reasonable care should not have known, of the untruth or omission;

(b) Willfully violated or willfully failed to comply with this ~~article~~ ARTICLE 110 or a rule promulgated or order issued under this ~~article~~ ARTICLE 110;

(c) Within the past ten years, entered a plea of guilty or nolo contendere to, or was convicted of, a felony or misdemeanor involving a breach of fiduciary duty or fraud; or

(d) Is subject to a temporary or permanent injunction for violating a state or federal law regulating the financial services industry, including, but not limited to, federal provisions regarding money laundering, record keeping, and registration.

11-110-110. [Formerly 12-52-109] Issuance of license - renewal - fee. (1) Before any license is issued, and annually thereafter on or before January 1 of each succeeding year, the applicant or licensee shall pay to the banking board a license fee in an amount set by the banking board pursuant to section 11-102-104 (11). ~~C.R.S.~~ For each license originally issued between July 1 and December 31 of any year, the applicant shall pay one-half the annual fee required in this section. Each license shall expire on January 1 unless the annual fee for the year has been paid prior to ~~such~~ THAT date.

(2) Beginning July 1, 1977, before any license may be renewed, the licensee shall be required to provide the same amount of bond coverage or securities for deposit as an initial applicant under section ~~12-52-107~~ 11-110-108.

11-110-111. [Formerly 12-52-110] Examination - fee - financial statements and reports to commissioner - change in control. (1)(a) The commissioner may examine the books and records of a licensee using risk-based criteria and considering other available regulatory mechanisms as directed by the banking board; shall make and file in the office of the commissioner a correct report in detail disclosing the results of ~~such~~ THE examination; and shall mail a copy of ~~such~~ THE report to the licensee examined. If the licensee's records are located outside this state, the licensee shall, at the option of ~~such~~ THE licensee, either make them available to the commissioner at a convenient location within this state or pay the reasonable and necessary expenses for the commissioner or the commissioner's representative to examine them at the place where they are maintained. The commissioner may designate representatives, including comparable officials of the state in which the records are located, to inspect them on behalf of the commissioner. For ~~such~~ THE examination, the commissioner shall charge a fee in an amount set by the banking board

pursuant to section 11-102-104 (11). ~~C.R.S.~~ If any licensee refuses to permit the commissioner to make an examination, ~~such~~ THE licensee shall be subject to such penalty as the commissioner may assess, not in excess of one hundred dollars for each day any such refusal shall continue.

(b) In lieu of any examination required by this section to be made by the commissioner, the commissioner may accept the audit of an independent certified public accountant or an independent registered accountant, but the cost of ~~such~~ THE audit shall be borne by the licensee.

(2) (a) Every licensee shall file an annual financial statement with the commissioner, audited by an independent certified public accountant or an independent registered accountant, within one hundred fifty days following the close of the licensee's fiscal year. ~~Such~~ THE financial statements shall include a balance sheet, a profit and loss statement, and a statement of retained earnings of the licensee and the licensee's agents and subagents resulting from selling or issuing exchange under this ~~article~~ ARTICLE 110. The financial statements shall be accompanied by copies of the engagement and management letters issued by the independent auditor.

(b) Every licensee shall file with the commissioner:

(I) Not less than three reports during each calendar year according to the form prescribed by the commissioner. Each report must exhibit in detail, as may be required by the commissioner, the resources and liabilities of the licensee at the close of business on the day specified by the commissioner in writing.

(II) A written notification within fifteen days after the occurrence of any of the following:

(A) A change in the licensee's managing official;

(B) The filing of a petition by or against the licensee under the United States bankruptcy code, 11 U.S.C. secs. 101 to 110, as amended, for bankruptcy or reorganization;

(C) The filing of a petition by or against the licensee for receivership or the commencement of any other judicial or administrative proceeding for its dissolution or reorganization;

(D) The commencement of a proceeding to revoke or suspend its license in a state or country in which the licensee engages in business or is licensed; or

(E) A felony conviction of the licensee or of a managing official, principal member, principal shareholder, or agent of the licensee.

(c) If any licensee fails to submit any statement or report to the commissioner as required by this subsection (2), ~~such~~ THE licensee shall pay to the commissioner a penalty of two hundred fifty dollars for each additional day of delinquency as set by the banking board pursuant to section 11-102-104 (11); ~~€R.S.~~; except that, if in the opinion of the banking board the delay is excusable for good cause shown, no penalty shall be paid.

11-110-112. [Formerly 12-52-110.3] Change in control - rule.

(1) (a) Except as specified in ~~paragraph (b) or (c) of this subsection (1)~~ SUBSECTION (1)(b) OR (1)(c) OF THIS SECTION, when a licensee proposes a change of control, the licensee shall:

(I) Give the commissioner written notice of the proposed change of control within fifteen days after learning of the proposed change of control;

(II) Request approval of the change of control; and

(III) Submit a nonrefundable fee in an amount established under section 11-102-104 (11) ~~€R.S.~~, with the notice.

(b) The board, by rule or order, may exempt a person from any of the requirements of ~~subparagraph (II) or (III) of paragraph (a) of this subsection (1)~~ SUBSECTION (1)(a)(II) OR (1)(a)(III) OF THIS SECTION if the board finds that it is in the public interest to do so.

(c) This subsection (1) does not apply to a public offering of securities.

(2) After review of a request for approval under subsection (1) of this section, the board may require the licensee to provide additional information concerning the persons proposed to control the licensee. The additional information must be limited to the same types required of the

licensee or persons in control of the licensee as part of its original license or renewal application.

(3) The board shall approve a request for change of control under subsection (1) of this section if, after investigation, the board determines that the person or group of persons requesting approval has the competence, experience, character, and general fitness to operate the licensee or person in control of the licensee in a lawful and proper manner and that the public interest will not be jeopardized by the change of control.

(4) When an application for a change of control under this section is complete, the board shall give written notice to the licensee of the date on which the board determined the request to be complete and the date on which the board will hold a hearing on the application.

(5) Before filing a request for approval to acquire control of a licensee or of a person in control of a licensee, a person may file a written request for a determination from the board as to whether the person would be considered a person in control of a licensee upon consummation of a proposed transaction. If the board determines that the person would not be a person in control of a licensee, the board shall provide to the person written notification to that effect and the proposed person and transaction are not subject to the requirements of subsections (1) to (3) of this section.

11-110-113. [Formerly 12-52-110.5] Compliance with federal law. Each licensee shall comply with state and federal money laundering laws, including, but not limited to, the federal "Bank Secrecy Act", 12 U.S.C. sec. 1951 et seq.

11-110-114. [Formerly 12-52-111] Multiple locations. (1) Each licensee may conduct business at locations within this state the licensee may desire and through agents and subagents the licensee may from time to time appoint. Each licensee shall notify the board by certified mail of any increase in the number of locations at which it conducts its business and shall provide proof that the licensee has increased the required bond or securities accordingly. The notification and proof are due on the date on which the licensee's next report required under section ~~12-52-110 (2)(b)~~ 11-110-111 (2)(b) is due.

(2) Each licensee may, without violating section 5-2-212, ~~C.R.S.~~

notwithstanding whether or not a facility or mode only accepts credit cards, conduct business through physical and electronic facilities, including by telephone and internet, and may charge a different price for the provision of services based upon the type of facility or mode of services used in ~~such~~ THE transaction so long as the price for ~~such~~ THE service within a single such facility or mode is not greater for a credit card than for other forms of payment.

11-110-115. [Formerly 12-52-112] Revocation or surrender of license. (1) The banking board may, upon ten days' notice served personally upon the licensee stating the contemplated action and the grounds therefor, hold a hearing at which the licensee shall have a reasonable opportunity to be heard, for the purpose of determining whether a license should be revoked.

(2) After ~~such~~ THE hearing the banking board may revoke any license issued under this ~~article~~ ARTICLE 110 if it finds that:

(a) The licensee has failed to maintain the required bond; or

(b) The licensee has failed to comply with any order, decision, or finding of the banking board or the commissioner made pursuant to this ~~article~~ ARTICLE 110; or

(c) The licensee has violated any provision of this ~~article~~ ARTICLE 110; or

(d) Facts exist ~~which~~ THAT would have warranted the banking board's refusal to issue the original license; or

(e) The licensee is engaged in a business a substantial portion of which involves the processing, manufacture, or purchase and sale of commodities or articles of tangible personal property and ~~such~~ THE licensee has failed to maintain constantly a separate bank deposit account or accounts for the exclusive payment of exchange issued by ~~such~~ THE licensee; or

(f) The licensee has sold or issued exchange without receiving payment for the face value of the exchange prior to the time of ~~such~~ THE sale or issuance.

(3) A licensee may surrender any license by delivering to the banking board written notice that he OR SHE surrenders ~~such~~ THE license, but ~~such~~ THE surrender shall not affect the licensee's civil or criminal liability for acts committed prior to the surrender, or affect the liability on any bond, or entitle the licensee to a return of any part of any license fee.

11-110-116. [Formerly 12-52-113] Rules. The banking board may make, promulgate, alter, amend, or revise reasonable rules ~~and regulations~~ as may be necessary for the enforcement and execution of this ~~article~~ ARTICLE 110.

11-110-117. [Formerly 12-52-114] Review. Any person aggrieved and directly affected by an order of the banking board issued under this ~~article~~ ARTICLE 110 may seek a review in the district court of Colorado in and for the county in which the principal place of business of the licensee or applicant is located. The filing of such a petition for review shall not, of itself, stay enforcement of an order, but the court may order a stay upon such terms as it deems proper.

11-110-118. [Formerly 12-52-115] Penalty for violations. Any person who violates any provision of this ~~article~~ ARTICLE 110 is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than ten thousand dollars. Each such violation shall constitute a separate offense.

11-110-119. [Formerly 12-52-115.5] Civil remedies - restraining orders - injunctions. (1) (a) If the board has cause to believe that a person has sold or issued exchange or transmitted money without a license issued under this ~~article 52~~ ARTICLE 110, the board may obtain from the district court of the city and county of Denver a temporary restraining order or a preliminary or permanent injunction prohibiting the person from violating this ~~article~~ ARTICLE 110. In ~~such~~ THE action, the board shall not be required to plead or prove irreparable injury or the inadequacy of the remedy at law.

(b) The court shall not require the board to post a bond.

(c) The district court may issue any orders or judgments necessary to prevent a violation of this ~~article~~ ARTICLE 110. The district court may award to the board the costs and attorney fees incurred in enforcing this ~~article~~ ARTICLE 110.

(2) A person who violates a district court order or injunction entered pursuant to this section shall be subject to the contempt powers of the district court and shall pay a civil penalty of not more than ten thousand dollars for each such violation. Each day a person continues to violate the district court order shall be a separate violation; except that the aggregate total of civil penalties shall not exceed one hundred thousand dollars for a related series of violations.

(3) The civil remedies imposed by this section shall be in addition to any other penalty or remedy for a violation of this ~~article~~ ARTICLE 110.

11-110-120. [Formerly 12-52-116] Notice - banking board - consumers. (1) The licensee or ~~such~~ THE licensee's agents or subagents shall give notice to the banking board, by certified mail, of any legal action which shall be brought against the licensee and of any judgment which shall be entered against ~~such~~ THE licensee, by any creditor or claimant, relating to selling or issuing exchange or transmitting money under this ~~article~~ ARTICLE 110, together with details sufficient to identify the action or judgment, within ten days after the commencement of any such action or notice to the licensee of entry of any such judgment. Within ten days after it pays any claim of judgment to any such creditor or such claimant, the corporate surety shall give notice to the banking board, by certified mail, of ~~such~~ THE payment, together with details sufficient to identify the claimant or creditor and the claim or judgment so paid.

(2) The licensee or ~~such~~ THE licensee's affiliates, agents, or subagents shall immediately give notice to the banking board, by certified mail, of any information in their possession with regard to money orders issued by them that have been returned to purchasers unpaid.

(3) (a) Except for a money exchange or transmission conducted at a branch of a federally insured depository institution, a licensee shall post and maintain at its establishment a notice advising the customer that the selling or issuing of exchange is regulated by the division of banking and that the customer may report alleged violations of the law to the division of banking. ~~Such~~ THE notice shall be created and furnished to the licensee by the commissioner.

(b) ~~Such~~ THE notice shall be posted conspicuously in a well-lighted place visible to customers.

11-110-121. [Formerly 12-52-117] Repeal of article - review of functions. (1) This ~~article~~ ARTICLE 110 is repealed, effective September 1, 2024.

(2) Prior to such repeal, the licensing functions of the commissioner and the banking board shall be reviewed as provided for in section 24-34-104. ~~C.R.S.~~

PART 2
MONEY TRANSMITTER AGENTS

11-110-201. [Formerly 12-52-201] Agent information - rules. (1) A money transmitter licensed pursuant to part 1 of this ~~article~~ ARTICLE 110 shall annually send the following information to the banking board on such form as it may prescribe:

(a) The name of each agent and the address and telephone number of each of the agent's offices that engage in the business of money transmission;

(b) The name, address, and telephone number of each of the owners of the agent holding more than a ten percent interest in the business if the agent is a partnership or an entity created pursuant to title 7; ~~C.R.S.~~;

(c) The services concerning money transmission that are offered by the agent and the locations where ~~such~~ THE services are offered;

(d) Such other pertinent information that the banking board may require concerning the agent or its directors, trustees, officers, members, branches, subsidiaries, affiliates, or agents as promulgated by rule.

(2) The banking board may promulgate rules necessary to implement this section.

11-110-202. [Formerly 12-52-202] Applicability. (1) This part 2 does not apply to an agent of a business licensed pursuant to part 1 of this ~~article~~ ARTICLE 110 to the extent that the agent is selling or adding additional money to stored value issued by the business.

(2) For purposes of this section, "stored value" means a card, code,

or other device that is issued to a consumer in a specified dollar amount, which may or may not be increased in value, and is redeemable at a single merchant, an affiliated group of merchants, or multiple unaffiliated groups of merchants or usable at automated teller machines.

11-110-203. [Formerly 12-52-203] Notice of laws - rules. (1) The banking board shall promulgate rules to create a form containing a notice of the contents of section 18-5-309 ~~C.R.S.~~, and other state and federal laws concerning money laundering.

(2) (a) An agent of a business licensed pursuant to part 1 of this ~~article~~ ARTICLE 110 shall require each employee who performs money transmission services to either:

(I) Understand and sign the form, created under subsection (1) of this section, affirming knowledge of the money laundering laws prior to the employee performing ~~such~~ THE services; or

(II) Receive training that covers the money laundering laws within thirty days before the employee performs ~~such~~ THE services.

(b) The agent shall maintain a record of each employee along with the signed notice or evidence of training in compliance with ~~paragraph (a) of this subsection (2)~~ SUBSECTION (2)(a) OF THIS SECTION so long as the employee provides ~~such~~ THE services. The records may be maintained in an electronic or digital format that reproduces the signature on the documents by the agent.

11-110-204. [Formerly 12-52-204] Records. The information sent to the banking board under section ~~12-52-201~~ 11-110-201 and the records required by section ~~12-52-203~~ 11-110-203 shall be open to any law enforcement officer acting within the scope and course of the officer's official duties.

11-110-205. [Formerly 12-52-205] Agent requirements. (1) No money transmitter licensed pursuant to part 1 of this ~~article~~ ARTICLE 110 shall knowingly contract with an agent or owner of an agent holding more than a ten percent interest in the business who has been convicted of or pleaded guilty or nolo contendere to the offenses in article 5 of title 18; ~~C.R.S.~~; a felony in the selling or issuing of exchange or in money

transmission; a felony involving a financial institution; or an equivalent crime outside Colorado.

(2) No agent of a money transmitter licensed pursuant to this ~~article~~ ARTICLE 110 shall knowingly employ a person to perform money transmission services who has been convicted of or pleaded guilty or nolo contendere to the offenses in article 5 of title 18; ~~C.R.S.~~; a felony in the selling or issuing of exchange or in money transmission; a felony involving a financial institution; or an equivalent crime outside Colorado.

11-110-206. [Formerly 12-52-206] Violations. (1) A person who violates this part 2 commits a class 2 misdemeanor and, for the second or any subsequent offense, the person commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501. ~~C.R.S.~~

(2) A person who acts as an agent of an unlicensed person required to be licensed by part 1 of this ~~article~~ ARTICLE 110 knowing the unlicensed person does not hold ~~such~~ THE license commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501. ~~C.R.S.~~

SECTION 3. In Colorado Revised Statutes, 7-121-401, **amend** the introductory portion, (33.5)(b) introductory portion, and (33.5)(b)(IV) as follows:

7-121-401. General definitions. As used in articles 121 to 137 of this ~~title~~ TITLE 7, unless the context otherwise requires:

(33.5) (b) Notwithstanding ~~paragraph (a) of this subsection (33.5)~~ SUBSECTION (33.5)(a) OF THIS SECTION, "residential nonprofit corporation" does not include:

(IV) A life care institution regulated under article ~~13 of title 12,~~ ~~C.R.S.~~ 49 OF TITLE 11; or

SECTION 4. In Colorado Revised Statutes, 11-44-101.7, **amend** (1)(b), (2) introductory portion, (2)(a), (3)(d), and (3)(h) as follows:

11-44-101.7. Powers of the financial services board. (1) The board is the policy-making and rule-making authority for the division and has the power to:

(b) Make, modify, reverse, and vacate rules for the proper enforcement and administration of articles 30, ~~and 40 to 46, AND 49 of this title and article 13 of title 12, C.R.S.~~ TITLE 11.

(2) In addition to any other powers conferred on it by articles 30, ~~and 40 to 46, AND 49 of this title~~ TITLE 11, the board has the power to:

(a) Make all final decisions with respect to the organization, conversion, or merger of credit unions and savings and loan associations and administration of life care institutions or providers pursuant to article ~~13 of title 12, C.R.S.~~ 49 OF THIS TITLE 11;

(3) The board has the power to:

(d) Issue a declaratory order with respect to the applicability of ~~article 13 of title 12, C.R.S.~~, articles 30, ~~and 40 to 46, AND 49 of this title~~ TITLE 11, or any rule ~~and regulation~~ issued by the board to any person, property, or state of facts under said provisions;

(h) Perform any acts and make any decisions incidental to or necessary for carrying out its functions as set forth in ~~article 13 of title 12, C.R.S., and~~ articles 30, ~~and 40 to 46, AND 49 of this title~~ TITLE 11;

SECTION 5. In Colorado Revised Statutes, 11-102-103, **amend** (2)(b) as follows:

11-102-103. Banking board - repeal. (2) (b) There shall be one member who during his or her tenure is, and shall remain, an executive officer of a business licensed pursuant to article ~~52 of title 12, C.R.S.~~ 110 OF THIS TITLE 11.

SECTION 6. In Colorado Revised Statutes, 11-102-104, **amend** (1)(b) as follows:

11-102-104. Powers and duties of banking board. (1) The banking board is the policy-making and rule-making authority for the division of banking and has the power to:

(b) Make, promulgate, alter, amend, or revise reasonable rules as may be necessary for the enforcement and execution of the "Money

Transmitters Act", article ~~52 of title 12, C.R.S.~~ 110 OF THIS TITLE 11; and

SECTION 7. In Colorado Revised Statutes, 11-102-305, **amend** (1)(a)(V) as follows:

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

(V) The commissioner may exchange information as provided by part 2 of article ~~52 of title 12, C.R.S.~~ 110 OF THIS TITLE 11.

SECTION 8. In Colorado Revised Statutes, 24-34-104, **amend** (25)(a)(II) as follows:

24-34-104. General assembly review of regulatory agencies and functions for repeal, continuation, or reestablishment - legislative declaration - repeal. (25) (a) The following agencies, functions, or both, will repeal on September 1, 2024:

(II) The licensing functions of the banking board and the state bank commissioner specified in article ~~52 of title 12, C.R.S.~~, 110 OF TITLE 11 regarding persons who transmit money;

SECTION 9. In Colorado Revised Statutes, 30-28-115, **amend** (2)(b)(II) as follows:

30-28-115. Public welfare to be promoted - legislative declaration - construction. (2) (b) (II) The general assembly declares that the establishment of group homes for the aged for the exclusive use of not more than eight persons sixty years of age or older per home is a matter of statewide concern. The general assembly further finds and declares that it is the policy of this state to enable and assist persons sixty years of age or older who do not need nursing facilities and who so elect to live in normal residential surroundings, including single-family residential units. Group homes for the aged shall be distinguished from nursing facilities, as defined in section 25.5-4-103 (14), ~~C.R.S.~~, and institutions providing life care, as defined in section ~~12-13-101 (5), C.R.S.~~ 11-49-101 (6). Every county having adopted or ~~which~~ THAT shall adopt a zoning ordinance shall provide for the location of group homes for the aged. A group home for the aged

established under this ~~paragraph (b)~~ SUBSECTION (2)(b)(II) shall not be located within seven hundred fifty feet of another such group home, unless otherwise provided for by the county.

SECTION 10. In Colorado Revised Statutes, 31-23-303, **amend** (2)(b)(II) as follows:

31-23-303. Legislative declaration. (2) (b) (II) The general assembly declares that the establishment of group homes for the aged for the exclusive use of not more than eight persons sixty years of age or older per home is a matter of statewide concern. The general assembly further finds and declares that it is the policy of this state to enable and assist persons sixty years of age or older who do not need nursing facilities, and who so elect, to live in normal residential surroundings, including single-family residential units. Group homes for the aged shall be distinguished from nursing facilities, as defined in section 25.5-4-103 (14), ~~C.R.S.~~, and institutions providing life care, as defined in section ~~12-13-101~~ (5), ~~C.R.S.~~ 11-49-101 (6). Every municipality having adopted or ~~which~~ THAT shall adopt a zoning ordinance shall provide for the location of group homes for the aged. A group home for the aged established under this ~~paragraph (b)~~ SUBSECTION (2)(b) shall not be located within seven hundred fifty feet of another such group home, unless otherwise provided for by the municipality. Nothing in this ~~paragraph (b)~~ SUBSECTION (2)(b) shall be construed to exempt ~~such~~ THE group homes from compliance with any state, county, or municipal health, safety, and fire codes. On April 29, 1976, every person sixty years of age or older who resides in a skilled or intermediate health care facility and who may be transferred or discharged therefrom to a group home for the aged shall not be so discharged or transferred unless he or she has received ninety days' advance written notice thereof or has agreed in writing to the proposed transfer or discharge.

SECTION 11. In Colorado Revised Statutes, 39-26-707, **amend** (2.5)(b) as follows:

39-26-707. Food, meals, beverages, and packaging - definitions. (2.5) For purposes of this section, "retirement community" means:

(b) An independent living facility designed and operated specifically to serve as the primary residence for persons aged fifty-five or

older that provides meals and other services to residents as part of a comprehensive fee, including a facility that qualifies as housing for older persons as defined in section 24-34-502 (7)(b) ~~C.R.S.~~, and a life care institution subject to article ~~13~~ of title ~~12~~, ~~C.R.S.~~ 49 OF TITLE 11; or

SECTION 12. Repeal of relocated provisions in this act. In Colorado Revised Statutes, **repeal** articles 13 and 52 of title 12.

SECTION 13. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless

approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Kevin J. Grantham
PRESIDENT OF
THE SENATE

Crisanta Duran
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Effie Ameen
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO