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HOUSE BILL 2661

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State of Washington

57th Legislature

2002 Regular Session

By Representatives Hurst and Kenney; by request of Governor Locke and Attorney General

Read first time 01/23/2002. Referred to Committee on Select Committee on Community Security.

1 AN ACT Relating to licensing and regulating money transmitters and  
2 currency exchangers; adding a new chapter to Title 19 RCW; prescribing  
3 penalties; and providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** SHORT TITLE. This chapter may be known and  
6 cited as the uniform money services act.

7 NEW SECTION. **Sec. 2.** PURPOSE. It is the intent of the  
8 legislature to establish a state system of licensure and regulation to  
9 ensure the safe and sound operation of money transmission and currency  
10 exchange businesses, to ensure that these businesses are not used for  
11 terrorist or criminal purposes, to promote confidence in the state's  
12 financial system, and to protect the public interest.

13 NEW SECTION. **Sec. 3.** DEFINITIONS. The definitions in this  
14 section apply throughout this chapter unless the context clearly  
15 requires otherwise.

1 (1) "Affiliate" means any person who directly or indirectly through  
2 one or more intermediaries, controls, is controlled by, or is under  
3 common control with, another person.

4 (2) "Applicant" means a person that files an application for a  
5 license under this chapter, including the applicant's proposed  
6 responsible individual and executive officers, and persons in control  
7 of the applicant.

8 (3) "Authorized delegate" means a person a licensee designates to  
9 provide money services on behalf of the licensee. A person that is  
10 exempt from licensing under this chapter cannot have an authorized  
11 delegate.

12 (4) "Financial institution" means any person doing business under  
13 the laws of any state or the United States relating to commercial  
14 banks, bank holding companies, savings banks, savings and loan  
15 associations, trust companies, or credit unions.

16 (5) "Control" means:

17 (a) Ownership of, or the power to vote, directly or indirectly, at  
18 least twenty-five percent of a class of voting securities or voting  
19 interests of a licensee or applicant, or person in control of a  
20 licensee or applicant;

21 (b) Power to elect a majority of executive officers, managers,  
22 directors, trustees, or other persons exercising managerial authority  
23 of a licensee or applicant, or person in control of a licensee or  
24 applicant; or

25 (c) Power to exercise directly or indirectly, a controlling  
26 influence over the management or policies of a licensee or applicant,  
27 or person in control of a licensee or applicant.

28 (6) "Currency exchange" means, for compensation or gain or in the  
29 expectation of compensation or gain, exchange of money of one  
30 government for money of another government, or holding oneself out as  
31 able to exchange the money of one government for money of another  
32 government. A person who in the regular course of business chooses to  
33 accept from a customer the currency of a country other than the United  
34 States in order to complete the sale of a good or service other than  
35 currency exchange, and does not otherwise trade in currencies or  
36 transmit money for compensation or gain, is not a currency exchanger.

37 (7) "Executive officer" means a president, chairperson of the  
38 executive committee, chief financial officer, responsible individual,  
39 or other individual who performs similar functions.

1 (8) "Licensee" means a person licensed under this chapter.

2 (9) "Material litigation" means litigation that according to  
3 generally accepted accounting principles is significant to an  
4 applicant's or a licensee's financial health and would be required to  
5 be disclosed in the applicant's or licensee's annual audited financial  
6 statements, report to shareholders, or similar records.

7 (10) "Money" means a medium of exchange that is authorized or  
8 adopted by the United States or a foreign government or other  
9 recognized medium of exchange. "Money" includes a monetary unit of  
10 account established by an intergovernmental organization or by  
11 agreement between two or more governments.

12 (11) "Money services" means money transmission or currency  
13 exchange.

14 (12) "Money transmission" means for compensation or gain, or in the  
15 expectation of compensation or gain, receiving money or monetary value  
16 to transmit, deliver, or instruct to be delivered the money or monetary  
17 value to another location, inside or outside the United States, by any  
18 means including but not limited to by wire, facsimile, or electronic  
19 transfer. "Money transmission" does not include the provision solely  
20 of online or telecommunications services, or network access.

21 (13) "Outstanding money transmission" means the value of all money  
22 transmissions reported to the licensee for which the money transmitter  
23 has received money or monetary value from the customer for  
24 transmission, but has not yet completed the money transmission by  
25 delivering the money or monetary value to the person designated by the  
26 customer.

27 (14) "Payment instrument" means a check, draft, money order,  
28 traveler's check, or other instrument for the transmission or payment  
29 of money or monetary value, whether or not negotiable. "Payment  
30 instrument" does not include a credit card voucher, letter of credit,  
31 or instrument that is redeemable by the issuer in goods or services.

32 (15) "Person" means an individual, corporation, business trust,  
33 estate, trust, partnership, limited liability company, association,  
34 joint venture; government, governmental subdivision, agency, or  
35 instrumentality; public corporation; or any other legal or commercial  
36 entity.

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

1 (17) "Responsible individual" means an individual who is employed  
2 by a licensee and has principal managerial authority over the provision  
3 of money services by the licensee in this state.

4 (18) "State" means a state of the United States, the District of  
5 Columbia, Puerto Rico, the United States Virgin Islands, or any  
6 territory or insular possession subject to the jurisdiction of the  
7 United States.

8 (19) "Director" means the director of financial institutions.

9 (20) "Unsafe or unsound practice" means a practice or conduct by a  
10 person licensed to provide money services, or an authorized delegate of  
11 such a person, which creates the likelihood of material loss,  
12 insolvency, or dissipation of the licensee's assets, or otherwise  
13 materially prejudices the financial condition of the licensee or the  
14 interests of its customers.

15 (21) "Board director" means a member of the applicant's or  
16 licensee's board of directors if the applicant is a corporation or  
17 limited liability company, or a partner if the applicant or licensee is  
18 a partnership.

19 (22) "Annual license assessment due date" means the date specified  
20 in rule by the director upon which the annual license assessment is  
21 due.

22 (23) "Currency exchanger" means a person that is engaged in  
23 currency exchange.

24 (24) "Money transmitter" means a person that is engaged in money  
25 transmission.

26 (25) "Mobile location" means a vehicle or movable facility where  
27 money services are provided.

28 (26) "Monetary value" means a medium of exchange, whether or not  
29 redeemable in money.

30 NEW SECTION. **Sec. 4.** EXCLUSIONS. This chapter does not apply to:

31 (1) The United States or a department, agency, or instrumentality  
32 thereof;

33 (2) Money transmission by the United States postal service or by a  
34 contractor on behalf of the United States postal service;

35 (3) A state, county, city, or a department, agency, or  
36 instrumentality thereof;

37 (4) A financial institution or its subsidiaries, affiliates, and  
38 service corporations, or any office of an international banking

1 corporation, branch of a foreign bank, or corporation organized  
2 pursuant to the Bank Service Corporation Act (12 U.S.C. Sec. 1861-1867)  
3 or a corporation organized under the Edge Act (12 U.S.C. Sec. 611-633);

4 (5) Electronic funds transfer of governmental benefits for a  
5 federal, state, county, or governmental agency by a contractor on  
6 behalf of the United States or a department, agency, or instrumentality  
7 thereof, or a state or governmental subdivision, agency, or  
8 instrumentality thereof;

9 (6) A board of trade designated as a contract market under the  
10 federal Commodity Exchange Act (7 U.S.C. Sec. 1-25) or a person that,  
11 in the ordinary course of business, provides clearance and settlement  
12 services for a board of trade to the extent of its operation as, or  
13 for, a board of trade;

14 (7) A registered futures commission merchant under the federal  
15 commodities laws to the extent of its operation as such a merchant;

16 (8) A person that provides clearance or settlement services under  
17 a registration as a clearing agency, or an exemption from that  
18 registration granted under the federal securities laws, to the extent  
19 of its operation as such a provider;

20 (9) An operator of a payment system only to the extent that it  
21 provides processing, clearing, or settlement services, between or among  
22 persons who are all excluded by this section, in connection with wire  
23 transfers, credit card transactions, debit card transactions, stored-  
24 value transactions, automated clearinghouse transfers, or similar funds  
25 transfers;

26 (10) A person registered as a securities broker-dealer or  
27 investment advisor under federal or state securities laws to the extent  
28 of its operation as such a broker-dealer or investment advisor; or

29 (11) An insurance company, title insurance company, or escrow agent  
30 to the extent that they are lawfully authorized to conduct business in  
31 this state as an insurance company, title insurance company, or escrow  
32 agent and to the extent that they engage in money transmission or  
33 currency exchange as an ancillary service when conducting insurance,  
34 title insurance, or escrow activity.

35 NEW SECTION. **Sec. 5.** MONEY TRANSMITTER LICENSE REQUIRED. (1) A  
36 person may not engage in money transmission, or advertise, solicit, or  
37 hold itself out as providing money transmission, unless the person is:

38 (a) Licensed as a money transmitter under this chapter; or

1 (b) An authorized delegate of a person licensed as a money  
2 transmitter under this chapter.

3 (2) A money transmitter license is not transferable or assignable.

4 NEW SECTION. **Sec. 6.** APPLICATION FOR A MONEY TRANSMITTER LICENSE.

5 (1) A person applying for a money transmitter license under this  
6 chapter shall do so in a form and in a medium prescribed in rule by the  
7 director. The application must state or contain:

8 (a) The legal name, business addresses, and residential address, if  
9 applicable, of the applicant and any fictitious or trade name used by  
10 the applicant in conducting its business;

11 (b) The legal name, residential and business addresses, date of  
12 birth, social security number, employment history for the ten-year  
13 period preceding the submission of the application of the applicant's  
14 proposed responsible individual, and documentation that the proposed  
15 responsible individual is a citizen of the United States or has  
16 obtained legal immigration status to work in the United States. In  
17 addition, the applicant shall provide the fingerprints of the proposed  
18 responsible individual upon the request of the director;

19 (c) For the ten-year period preceding submission of the  
20 application, a list of any criminal convictions of the proposed  
21 responsible individual of the applicant, any material litigation in  
22 which the applicant has been involved, and any litigation involving the  
23 proposed responsible individual relating to the provision of money  
24 services;

25 (d) A description of any money services previously provided by the  
26 applicant and the money services that the applicant seeks to provide in  
27 this state;

28 (e) A list of the applicant's proposed authorized delegates and the  
29 locations in this state where the applicant and its authorized  
30 delegates propose to engage in the provision of money services;

31 (f) A list of other states in which the applicant is licensed to  
32 engage in money transmission, or provide other money services, and any  
33 license revocations, suspensions, restrictions, or other disciplinary  
34 action taken against the applicant in another state;

35 (g) A list of any license revocations, suspensions, restrictions,  
36 or other disciplinary action taken against any money services business  
37 involving the proposed responsible individual;

1 (h) Information concerning any bankruptcy or receivership  
2 proceedings involving or affecting the applicant or the proposed  
3 responsible individual;

4 (i) A sample form of contract for authorized delegates, if  
5 applicable;

6 (j) A description of the source of money and credit to be used by  
7 the applicant to provide money services; and

8 (k) Any other information regarding the background, experience,  
9 character, financial responsibility, and general fitness of the  
10 applicant, the applicant's responsible individual, or authorized  
11 delegates that the director may require in rule.

12 (2) If an applicant is a corporation, limited liability company,  
13 partnership, or other entity, the applicant shall also provide:

14 (a) The date of the applicant's incorporation or formation and  
15 state or country of incorporation or formation;

16 (b) If applicable, a certificate of good standing from the state or  
17 country in which the applicant is incorporated or formed;

18 (c) A brief description of the structure or organization of the  
19 applicant, including any parent or subsidiary of the applicant, and  
20 whether any parent or subsidiary is publicly traded;

21 (d) The legal name, any fictitious or trade name, all business and  
22 residential addresses, date of birth, social security number, and  
23 employment history in the ten-year period preceding the submission of  
24 the application for each executive officer, board director, or person  
25 that has control of the applicant;

26 (e) If the applicant or its corporate parent is not a publicly  
27 traded entity, the director may request the fingerprints of each  
28 executive officer, board director, or person that has control of the  
29 applicant;

30 (f) A list of any criminal convictions, material litigation, and  
31 any litigation related to the provision of money services, in the ten-  
32 year period preceding the submission of the application in which any  
33 executive officer, board director, or person in control of the  
34 applicant has been involved;

35 (g) A copy of the applicant's audited financial statements for the  
36 most recent fiscal year and, if available, for the two-year period  
37 preceding the submission of the application;

1 (h) A copy of the applicant's unconsolidated financial statements  
2 for the current fiscal year, whether audited or not, and, if available,  
3 for the two-year period preceding the submission of the application;

4 (i) If the applicant is publicly traded, a copy of the most recent  
5 report filed with the United States securities and exchange commission  
6 under section 13 of the federal Securities Exchange Act of 1934 (15  
7 U.S.C. Sec. 78m);

8 (j) If the applicant is a wholly owned subsidiary of:

9 (i) A corporation publicly traded in the United States, a copy of  
10 audited financial statements for the parent corporation for the most  
11 recent fiscal year or a copy of the parent corporation's most recent  
12 report filed under section 13 of the federal Securities Exchange Act of  
13 1934 (15 U.S.C. Sec. 78m); or

14 (ii) A corporation publicly traded outside the United States, a  
15 copy of similar documentation filed with the regulator of the parent  
16 corporation's domicile outside the United States;

17 (k) If the applicant has a registered agent in this state, the name  
18 and address of the applicant's registered agent in this state; and

19 (l) Any other information that the director may require in rule  
20 regarding the applicant, each executive officer, or each board director  
21 to determine the applicant's background, experience, character,  
22 financial responsibility, and general fitness.

23 (3) A nonrefundable application fee and an initial license fee, as  
24 determined in rule by the director, must accompany an application for  
25 a license under this chapter. The initial license fee must be refunded  
26 if the application is denied.

27 (4) The director may waive one or more requirements of subsection  
28 (1) or (2) of this section or permit an applicant to submit other  
29 information in lieu of the required information.

30 NEW SECTION. **Sec. 7.** SECURITY. (1) Each money transmitter  
31 licensee shall maintain a surety bond, or other similar security  
32 acceptable to the director, in the amount of fifty thousand dollars  
33 plus ten thousand dollars per location, including locations of  
34 authorized delegates, not exceeding a total addition of five hundred  
35 thousand dollars.

36 (2) The surety bond shall run to the state of Washington as  
37 obligee, and shall run to the benefit of the state and any person or  
38 persons who suffer loss by reason of a licensee's or licensee's



1 authorized delegate's violation of this chapter or the rules adopted  
2 under this chapter. A claimant against a money transmitter licensee  
3 may maintain an action on the bond, or the director may maintain an  
4 action on behalf of the claimant.

5 (3) The surety bond shall be continuous and may be canceled by the  
6 surety upon the surety giving written notice to the director of its  
7 intent to cancel the bond. The cancellation is effective thirty days  
8 after the notice of cancellation is received by the director or the  
9 director's designee. Whether or not the bond is renewed, continued,  
10 replaced, or modified, including increases or decreases in the penal  
11 sum, it is considered one continuous obligation, and the surety upon  
12 the bond is not liable in an aggregate or cumulative amount exceeding  
13 the penal sum set forth on the face of the bond. In no event may the  
14 penal sum, or any portion thereof, at two or more points in time, be  
15 added together in determining the surety's liability.

16 (4) A surety bond or other security must cover claims for at least  
17 five years after the date of a money transmitter licensee's violation  
18 of this chapter, or at least five years after the date the money  
19 transmitter licensee ceases to provide money services in this state,  
20 whichever is longer.

21 (5) In the event that a money transmitter licensee does not  
22 maintain a surety bond or other form of security satisfactory to the  
23 director in the amount required under subsection (1) of this section,  
24 the director may issue a temporary cease and desist order under section  
25 28 of this act.

26 (6) The director may increase the amount of security required to a  
27 maximum of one million dollars if the financial condition of a money  
28 transmitter licensee so requires, as evidenced by reduction of net  
29 worth, financial losses, potential losses as a result of violations of  
30 this chapter or rules adopted under this chapter, or other relevant  
31 criteria specified by the director in rule.

32 NEW SECTION. **Sec. 8.** NET WORTH FOR MONEY TRANSMITTER. A money  
33 transmitter licensed under this chapter shall maintain a net worth of  
34 at least twenty-five thousand dollars determined in accordance with  
35 generally accepted accounting principles. In the event that a  
36 licensee's net worth, as determined in accordance with generally  
37 accepted accounting principles, falls below twenty-five thousand  
38 dollars, the director or the director's designee may initiate action

1 under sections 25 and 28 of this act. The licensee may request a  
2 hearing on such an action under chapter 34.05 RCW.

3 NEW SECTION. **Sec. 9.** ISSUANCE OF MONEY TRANSMITTER LICENSE. (1)  
4 When an application for a money transmitter license is filed under this  
5 chapter, the director or the director's designee shall investigate the  
6 applicant's financial condition and responsibility, financial and  
7 business experience, competence, character, and general fitness. The  
8 director or the director's designee may conduct an on-site  
9 investigation of the applicant, the cost of which must be paid by the  
10 applicant as specified in section 34 of this act or rules adopted under  
11 this chapter. The director shall issue a money transmitter license to  
12 an applicant under this chapter if the director or the director's  
13 designee finds that all of the following conditions have been  
14 fulfilled:

15 (a) The applicant has complied with sections 6, 7, and 8 of this  
16 act;

17 (b) The financial condition and responsibility, financial and  
18 business experience, competence, character, and general fitness of the  
19 applicant; and the competence, financial and business experience,  
20 character, and general fitness of the executive officers, proposed  
21 responsible individual, board directors, and persons in control of the  
22 applicant; indicate that it is in the interest of the public to permit  
23 the applicant to engage in the business of providing money transmission  
24 services; and

25 (c) Neither the applicant, nor any executive officer, nor person  
26 who exercises control over the applicant, nor the proposed responsible  
27 individual are listed on the specially designated nationals and blocked  
28 persons list prepared by the United States department of the treasury  
29 as a potential threat to commit terrorist acts or to finance terrorist  
30 acts.

31 (2) The director may for good cause extend the application review  
32 period.

33 (3) An applicant whose application is denied by the director under  
34 this chapter may appeal under chapter 34.05 RCW.

35 (4) A money transmitter license issued under this chapter is valid  
36 from the date of issuance and remains in effect with no fixed date of  
37 expiration unless otherwise suspended or revoked by the director or

1 unless the license expires for nonpayment of the annual license  
2 assessment and any late fee, if applicable.

3 (5) A money transmitter licensee may surrender a license by  
4 delivering the original license to the director along with a written  
5 notice of surrender. The written notice of surrender must include  
6 notice of where the records of the licensee will be stored and the  
7 name, address, telephone number, and other contact information of a  
8 responsible party who is authorized to provide access to the records.  
9 The surrender of a license does not reduce or eliminate the licensee's  
10 civil or criminal liability arising from acts or omissions occurring  
11 prior to the surrender of the license, including any administrative  
12 actions undertaken by the director or the director's designee to revoke  
13 or suspend a license, to assess fines, to order payment of restitution,  
14 or to exercise any other authority authorized under this chapter.

15 NEW SECTION. **Sec. 10.** CURRENCY EXCHANGE LICENSE REQUIRED. (1) A  
16 person may not engage in currency exchange or advertise, solicit, or  
17 hold itself out as able to engage in currency exchange for which the  
18 person receives revenue equal to or greater than five percent of total  
19 revenues, unless the person is:

- 20 (a) Licensed to provide currency exchange under this chapter;  
21 (b) Licensed for money transmission under this chapter; or  
22 (c) An authorized delegate of a person licensed under this chapter.  
23 (2) A license under this chapter is not transferable or assignable.

24 NEW SECTION. **Sec. 11.** APPLICATION FOR A CURRENCY EXCHANGE  
25 LICENSE. (1) A person applying for a currency exchange license under  
26 this chapter shall do so in a form and in a medium prescribed in rule  
27 by the director. The application must state or contain:

- 28 (a) The legal name, business addresses, and residential address, if  
29 applicable, of the applicant and any fictitious or trade name used by  
30 the applicant in conducting its business, and the legal name,  
31 residential and business addresses, date of birth, social security  
32 number, employment history for the ten-year period preceding the  
33 submission of the application; and upon request of the director,  
34 fingerprints of the applicant's proposed responsible individual and  
35 documentation that the proposed responsible individual is a citizen of  
36 the United States or has obtained legal immigration status to work in  
37 the United States;

1 (b) For the ten-year period preceding the submission of the  
2 application, a list of any criminal convictions of the proposed  
3 responsible individual of the applicant, any material litigation in  
4 which the applicant has been involved, and any litigation involving the  
5 proposed responsible individual relating to the provision of money  
6 services;

7 (c) A description of any money services previously provided by the  
8 applicant and the money services that the applicant seeks to provide in  
9 this state;

10 (d) A list of the applicant's proposed authorized delegates and the  
11 locations in this state where the applicant and its authorized  
12 delegates propose to engage in currency exchange;

13 (e) A list of other states in which the applicant engages in  
14 currency exchange or provides other money services and any license  
15 revocations, suspensions, restrictions, or other disciplinary action  
16 taken against the applicant in another state;

17 (f) A list of any license revocations, suspensions, restrictions,  
18 or other disciplinary action taken against any money services business  
19 involving the proposed responsible individual;

20 (g) Information concerning any bankruptcy or receivership  
21 proceedings involving or affecting the applicant or the proposed  
22 responsible individual;

23 (h) A sample form of contract for authorized delegates, if  
24 applicable;

25 (i) A description of the source of money and credit to be used by  
26 the applicant to provide currency exchange; and

27 (j) Any other information regarding the background, experience,  
28 character, financial responsibility, and general fitness of the  
29 applicant, the applicant's responsible individual, or authorized  
30 delegates that the director may require in rule.

31 (2) If an applicant is a corporation, limited liability company,  
32 partnership, or other entity, the applicant shall also provide:

33 (a) The date of the applicant's incorporation or formation and  
34 state or country of incorporation or formation;

35 (b) If applicable, a certificate of good standing from the state or  
36 country in which the applicant is incorporated or formed;

37 (c) A brief description of the structure or organization of the  
38 applicant, including any parent or subsidiary of the applicant, and  
39 whether any parent or subsidiary is publicly traded;

1 (d) The legal name, any fictitious or trade name, all business and  
2 residential addresses, date of birth, social security number, and  
3 employment history in the ten-year period preceding the submission of  
4 the application for each executive officer, board director, or person  
5 that has control of the applicant;

6 (e) If the applicant or its corporate parent is not a publicly  
7 traded entity, the director may request the fingerprints for each  
8 executive officer, board director, or person that has control of the  
9 applicant; and

10 (f) A list of any criminal convictions, material litigation, and  
11 any litigation related to the provision of money services, in which any  
12 executive officer, board director, or person in control of the  
13 applicant has been involved in the ten-year period preceding the  
14 submission of the application.

15 (3) A nonrefundable application fee and an initial license fee, as  
16 determined in rule by the director, must accompany an application for  
17 a currency exchange license under this chapter. The license fee must  
18 be refunded if the application is denied.

19 (4) The director may waive one or more requirements of subsection  
20 (1) or (2) of this section or permit an applicant to submit other  
21 information in lieu of the required information.

22 NEW SECTION. **Sec. 12.** ISSUANCE OF A CURRENCY EXCHANGE LICENSE.

23 (1) When an application for a currency exchange license is filed under  
24 this chapter, the director or the director's designee shall investigate  
25 the applicant's financial condition and responsibility, financial and  
26 business experience, competence, character, and general fitness. The  
27 director or the director's designee may conduct an on-site  
28 investigation of the applicant, the cost of which must be paid by the  
29 applicant as specified in section 34 of this act or rules adopted under  
30 this chapter. The director shall issue a currency exchange license to  
31 an applicant under this chapter if the director or the director's  
32 designee finds that all of the following conditions have been  
33 fulfilled:

34 (a) The applicant has complied with section 11 of this act;

35 (b) The financial and business experience, competence, character,  
36 and general fitness of the applicant; and the competence, financial and  
37 business experience, character, and general fitness of the executive  
38 officers, proposed responsible individual, board directors, and persons

1 in control of the applicant indicate that it is in the interest of the  
2 public to permit the applicant to engage in the business of providing  
3 currency exchange; and

4 (c) Neither the applicant, nor any executive officer, nor person  
5 who exercises control over the applicant, nor the proposed responsible  
6 individual are listed on the specially designated nationals and blocked  
7 persons list prepared by the United States department of treasury as a  
8 potential threat to commit terrorist acts or to finance terrorist acts.

9 (2) The director may for good cause extend the application review  
10 period.

11 (3) An applicant whose application is denied by the director under  
12 this chapter may appeal under chapter 34.05 RCW.

13 (4) A currency exchange license issued under this chapter is valid  
14 from the date of issuance and remains in effect with no fixed date of  
15 expiration unless otherwise suspended or revoked by the director.

16 (5) A currency exchange licensee may surrender a license by  
17 delivering the original license to the director along with a written  
18 notice of surrender. The written notice of surrender must include  
19 notice of where the records of the licensee will be stored and the  
20 name, address, telephone number, and other contact information of a  
21 responsible party who is authorized to provide access to the records.  
22 The surrender of a license does not reduce or eliminate the licensee's  
23 civil or criminal liability arising from acts or omissions occurring  
24 prior to the surrender of the license, including any administrative  
25 actions undertaken by the director or the director's designee to revoke  
26 or suspend a license, to assess fines, to order payment of restitution,  
27 or to exercise any other authority authorized under this chapter.

28 NEW SECTION. **Sec. 13.** ANNUAL LICENSE ASSESSMENT AND ANNUAL  
29 REPORT. (1) A licensee shall pay an annual license assessment as  
30 established in rule by the director no later than the annual license  
31 assessment due date or, if the annual license assessment due date is  
32 not a business day, on the next business day.

33 (2) A licensee shall submit an annual report with the annual  
34 license assessment, in a form and in a medium prescribed by the  
35 director in rule. The annual report must state or contain:

36 (a) If the licensee is a money transmitter, a copy of the  
37 licensee's most recent audited annual financial statement or, if the  
38 licensee is a wholly owned subsidiary of another corporation, the most

1 recent audited consolidated annual financial statement of the parent  
2 corporation or the licensee's most recent audited consolidated annual  
3 financial statement;

4 (b) A description of each material change, as defined in rule by  
5 the director, to information submitted by the licensee in its original  
6 license application which has not been previously reported to the  
7 director on any required report;

8 (c) If the licensee is a money transmitter, a list of the  
9 licensee's permissible investments and a certification that the  
10 licensee continues to maintain permissible investments according to the  
11 requirements set forth in sections 22 and 23 of this act;

12 (d) If the licensee is a money transmitter, proof that the licensee  
13 continues to maintain adequate security as required by section 7 of  
14 this act; and

15 (e) A list of the locations in this state where the licensee or an  
16 authorized delegate of the licensee engages in or provides money  
17 services.

18 (3) If a licensee does not file an annual report or pay its annual  
19 license assessment by the annual license assessment due date or any  
20 extension of time granted by the director or the director's designee,  
21 the director or the director's designee shall send the licensee a  
22 notice of suspension and assess the licensee a late fee not to exceed  
23 twenty-five percent of the annual license assessment as established in  
24 rule by the director. To prevent expiration of the license, the  
25 licensee's annual report and payment of both the annual license  
26 assessment and the late fee must arrive in the department's offices by  
27 5:00 p.m. on the thirtieth day after the assessment due date or any  
28 extension of time granted by the director, unless that date is not a  
29 business day, in which case the licensee's annual report and payment of  
30 both the annual license assessment and the late fee must arrive in the  
31 department's offices by 5:00 p.m. on the next occurring business day.  
32 If the licensee's annual report and payment of both the annual license  
33 assessment and late fee do not arrive by such date, the expiration of  
34 the licensee's license is effective at 5:00 p.m. on the thirtieth day  
35 after the assessment due date, unless that date is not a business day,  
36 in which case the expiration of the licensee's license is effective at  
37 5:00 p.m. on the next occurring business day. The expiration of the  
38 license may be lifted if, within twenty days after its effective date,  
39 the licensee:

1 (a) Files the annual report and pays both the annual license  
2 assessment and the late fee; and

3 (b) The licensee did not engage in or provide money services during  
4 the period its license was expired.

5 (4) The director for good cause may grant an extension of the  
6 assessment due date.

7 NEW SECTION. **Sec. 14.** RELATIONSHIP BETWEEN LICENSEE AND  
8 AUTHORIZED DELEGATE. (1) In this section, "remit" means to make direct  
9 payments of money to a licensee or its representative authorized to  
10 receive money or to deposit money in a bank in an account specified by  
11 the licensee.

12 (2) A contract between a licensee and an authorized delegate must  
13 require the authorized delegate to operate in full compliance with this  
14 chapter and the rules adopted under this chapter. The licensee shall  
15 furnish to each authorized delegate policies and procedures to assist  
16 each authorized delegate in preventing violations of this chapter and  
17 the rules adopted under this chapter.

18 (3) Neither the licensee nor an authorized delegate may authorize  
19 subdelegates.

20 (4) An authorized delegate shall remit all money owing to the  
21 licensee in accordance with the terms of the contract between the  
22 licensee and the authorized delegate.

23 (5) If a license is suspended or revoked or a licensee surrenders  
24 its license, the director shall notify all authorized delegates of the  
25 licensee whose names are filed with the director of the suspension,  
26 revocation, or surrender. An authorized delegate shall immediately  
27 cease to provide money services as a delegate of the licensee upon  
28 receipt of notice, or after publication is made, that the licensee's  
29 license has been suspended, revoked, or surrendered.

30 (6) An authorized delegate may not provide money services other  
31 than those allowed the licensee under its license. In addition, an  
32 authorized delegate may not provide money services outside the scope of  
33 activity permissible under the contract between the authorized delegate  
34 and the licensee, except activity in which the authorized delegate is  
35 authorized to engage under section 5 or 10 of this act. An authorized  
36 delegate of a licensee holds in trust for the benefit of the licensee  
37 all money net of fees received from money transmission. Funds held in  
38 trust are exempt from execution, attachment, or garnishment.



1        NEW SECTION.    **Sec. 15.**    AUTHORITY TO CONDUCT EXAMINATIONS AND

2 INVESTIGATIONS. (1) For the purpose of discovering violations of this  
3 chapter or rules adopted under this chapter, discovering unsafe and  
4 unsound practices, or securing information lawfully required under this  
5 chapter, the director may at any time, either personally or by  
6 designee, investigate or examine the loans and business and, wherever  
7 located, the books, accounts, records, papers, documents, files, and  
8 other information used in the business of every licensee or its  
9 authorized delegates, and of every person who is engaged in the  
10 business of providing money services, whether the person acts or claims  
11 to act under or without the authority of this chapter. For these  
12 purposes, the director or designated representative shall have free  
13 access to the offices and places of business, books, accounts, papers,  
14 documents, other information, records, files, safes, and vaults of all  
15 such persons. The director or the director's designee may require the  
16 attendance of and examine under oath all persons whose testimony may be  
17 required about the business or the subject matter of any investigation,  
18 examination, or hearing and may require such person to produce books,  
19 accounts, papers, documents, records, files, and any other information  
20 the director or designated person declares is relevant to the inquiry.  
21 The director may require the production of original books, accounts,  
22 papers, documents, records, files, and other information; may require  
23 that such original books, accounts, papers, documents, records, files,  
24 and other information be copied; or may make copies himself or herself  
25 or by designee of such original books, accounts, papers, documents,  
26 records, files, or other information. If a licensee or person does not  
27 attend and testify, or does not produce the requested books, accounts,  
28 papers, documents, records, files, or other information, then the  
29 director or designated person may issue a subpoena or subpoena duces  
30 tecum requiring attendance or compelling production of the books,  
31 accounts, papers, documents, records, files, or other information.

32        (2) The licensee, applicant, or person subject to licensing under  
33 this chapter shall pay the cost of examinations and investigations as  
34 specified in section 34 of this act or rules adopted under this  
35 chapter.

36        (3) Information obtained during an examination or investigation  
37 under this chapter may be disclosed only as provided in section 21 of  
38 this act.

1        NEW SECTION.    **Sec. 16.**    JOINT EXAMINATIONS.    (1) The director may  
2    conduct an on-site examination or investigation of the books, accounts,  
3    records, papers, documents, files, and other information used in the  
4    business of every licensee or its authorized delegates in conjunction  
5    with representatives of other state agencies or agencies of another  
6    state or of the federal government.    The director may accept an  
7    examination report or an investigation report of an agency of this  
8    state or of another state or of the federal government.

9        (2) A joint examination or investigation, or an acceptance of an  
10    examination or investigation report, does not preclude the director  
11    from conducting an examination or investigation under this chapter.    A  
12    joint report or a report accepted under this section is an official  
13    report of the director for all purposes.

14       NEW SECTION.    **Sec. 17.**    REPORTS.    (1) A licensee shall file with  
15    the director within thirty business days any material changes in  
16    information provided in a licensee's application as prescribed in rule  
17    by the director.    If this information indicates that the licensee is no  
18    longer in compliance with this chapter, the director may take any  
19    action authorized under this chapter to ensure that the licensee  
20    operates in compliance with this chapter.

21       (2) A licensee shall file with the director within forty-five days  
22    after the end of each fiscal quarter a current list of all authorized  
23    delegates and locations in this state where the licensee, or an  
24    authorized delegate of the licensee, provides money services, including  
25    mobile locations.    The licensee shall state the name and street address  
26    of each location and authorized delegate.

27       (3) A licensee shall file a report with the director within one  
28    business day after the licensee has reason to know of the occurrence of  
29    any of the following events:

30       (a) The filing of a petition by or against the licensee, or any  
31    authorized delegate of the licensee, under the United States Bankruptcy  
32    Code (11 U.S.C. Sec. 101-110) for bankruptcy or reorganization;

33       (b) The filing of a petition by or against the licensee, or any  
34    authorized delegate of the licensee, for receivership, the commencement  
35    of any other judicial or administrative proceeding for its dissolution  
36    or reorganization, or the making of a general assignment for the  
37    benefit of its creditors;

1 (c) The commencement of a proceeding to revoke, suspend, restrict,  
2 or condition its license, or otherwise discipline or sanction the  
3 licensee, in a state or country in which the licensee engages in  
4 business or is licensed;

5 (d) The cancellation or other impairment of the licensee's bond or  
6 other security;

7 (e) A charge or conviction of the licensee or of an executive  
8 officer, responsible individual, board director of the licensee, or  
9 person in control of the licensee, for a felony; or

10 (f) A charge or conviction of an authorized delegate for a felony.

11 NEW SECTION. **Sec. 18.** CHANGE OF CONTROL. (1) A licensee shall:

12 (a) Provide the director with written notice of a proposed change  
13 of control within fifteen days after learning of the proposed change of  
14 control and at least thirty days prior to the proposed change of  
15 control;

16 (b) Request approval of the change of control by submitting the  
17 information required in rule by the director; and

18 (c) Submit, with the notice, a nonrefundable fee as prescribed in  
19 rule by the director.

20 (2) After review of a request for approval under subsection (1) of  
21 this section, the director may require the licensee to provide  
22 additional information concerning the proposed persons in control of  
23 the licensee. The additional information must be limited to the same  
24 types required of the licensee, or persons in control of the licensee,  
25 as part of its original license or renewal application.

26 (3) The director shall approve a request for change of control  
27 under subsection (1) of this section if, after investigation, the  
28 director determines that the person, or group of persons, requesting  
29 approval meets the criteria for licensing set forth in sections 9 and  
30 12 of this act and that the public interest will not be jeopardized by  
31 the change of control.

32 (4) Subsection (1) of this section does not apply to a public  
33 offering of securities.

34 (5) Before filing a request for approval to acquire control of a  
35 licensee, or person in control of a licensee, a person may request in  
36 writing a determination from the director as to whether the person  
37 would be considered a person in control of a licensee upon consummation  
38 of a proposed transaction. If the director determines that the person

1 would not be a person in control of a licensee, the director shall  
2 respond in writing to that effect and the proposed person and  
3 transaction is not subject to the requirements of subsections (1)  
4 through (3) of this section.

5 (6) The director may exempt by rule any person from the  
6 requirements of subsection (1)(a) of this section, if it is in the  
7 public interest to do so.

8 NEW SECTION. **Sec. 19.** RECORDS. (1) A licensee shall maintain the  
9 following records for determining its compliance with this chapter for  
10 at least five years:

11 (a) A general ledger posted at least monthly containing all assets,  
12 liabilities, capital, income, and expense accounts;

13 (b) Bank statements and bank reconciliation records;

14 (c) A list of the last known names and addresses of all of the  
15 licensee's authorized delegates;

16 (d) Copies of all currency transaction reports and suspicious  
17 activity reports filed in compliance with section 20 of this act; and

18 (e) Any other records required in rule by the director.

19 (2) The items specified in subsection (1) of this section may be  
20 maintained in any form of record that is readily accessible to the  
21 director or the director's designee upon request.

22 (3) Records may be maintained outside this state if they are made  
23 accessible to the director on seven business days' notice that is sent  
24 in writing.

25 (4) All records maintained by the licensee are open to inspection  
26 by the director or the director's designee.

27 NEW SECTION. **Sec. 20.** MONEY LAUNDERING REPORTS. (1) Every  
28 licensee and its authorized delegates shall file with the director or  
29 the director's designee all reports required by federal currency  
30 reporting, recordkeeping, and suspicious transaction reporting  
31 requirements as set forth in 31 U.S.C. Sec. 5311, 31 C.F.R. Sec. 103  
32 (2000), and other federal and state laws pertaining to money  
33 laundering. Every licensee and its authorized delegates shall maintain  
34 copies of these reports in its records in compliance with section 19 of  
35 this act.

36 (2) The timely filing of a complete and accurate report required  
37 under subsection (1) of this section with the appropriate federal

1 agency is compliance with the requirements of subsection (1) of this  
2 section, unless the director notifies the licensee that reports of this  
3 type are not being regularly and comprehensively transmitted by the  
4 federal agency.

5 NEW SECTION. **Sec. 21.** CONFIDENTIALITY. (1) Except as otherwise  
6 provided in subsection (2) of this section, all information or reports  
7 obtained by the director from an applicant, licensee, or authorized  
8 delegate and all information contained in, or related to, examination,  
9 investigation, operating, or condition reports prepared by, on behalf  
10 of, or for the use of the director, or financial statements, balance  
11 sheets, or authorized delegate information, are confidential and are  
12 not subject to disclosure under chapter 42.17 RCW.

13 (2) The director may disclose information not otherwise subject to  
14 disclosure under subsection (1) of this section to representatives of  
15 state or federal agencies who agree in writing to maintain the  
16 confidentiality of the information; or if the director finds that the  
17 release is reasonably necessary for the protection of the public and in  
18 the interests of justice.

19 (3) This section does not prohibit the director from disclosing to  
20 the public a list of persons licensed under this chapter or the  
21 aggregated financial data concerning those licensees.

22 NEW SECTION. **Sec. 22.** MAINTENANCE OF PERMISSIBLE INVESTMENTS.

23 (1) A money transmitter licensee shall maintain at all times  
24 permissible investments that have a market value computed in accordance  
25 with generally accepted accounting principles of not less than the  
26 aggregate amount of all outstanding money transmission by the licensee  
27 or its authorized delegates.

28 (2) The director, with respect to any money transmitter licensee,  
29 may limit the extent to which a type of investment within a class of  
30 permissible investments may be considered a permissible investment,  
31 except for money and certificates of deposit issued by a federally  
32 insured financial institution. The director may prescribe in rule, or  
33 by order allow, other types of investments that the director determines  
34 to have a safety substantially equivalent to other permissible  
35 investments.

36 (3) Permissible investments, even if commingled with other assets  
37 of the licensee, are held in trust by operation of law for the benefit

1 of the holders of the licensee's outstanding payments in the event of  
2 bankruptcy or receivership of the licensee. Investments held in trust  
3 for the benefit of the holders of the licensee's outstanding payments  
4 are exempt from execution, attachment, or garnishment.

5 NEW SECTION. **Sec. 23.** TYPES OF PERMISSIBLE INVESTMENTS. (1)  
6 Except to the extent otherwise limited by the director under section 22  
7 of this act, the following investments are permissible for a money  
8 transmitter licensee under section 22 of this act:

9 (a) Cash, a certificate of deposit, or senior debt obligation of an  
10 insured depository institution as defined in section 3 of the federal  
11 Deposit Insurance Act (12 U.S.C. Sec. 1813) or as defined under the  
12 federal Credit Union Act (12 U.S.C. Sec. 1781);

13 (b) Banker's acceptance or bill of exchange that is eligible for  
14 purchase upon endorsement by a member bank of the federal reserve  
15 system and is eligible for purchase by a federal reserve bank;

16 (c) An investment bearing a rating of one of the three highest  
17 grades as defined by a nationally recognized organization that rates  
18 securities;

19 (d) An investment security that is an obligation of the United  
20 States or a department, agency, or instrumentality thereof; an  
21 investment in an obligation that is guaranteed fully as to principal  
22 and interest by the United States; or an investment in an obligation of  
23 a state or a governmental subdivision, agency, or instrumentality  
24 thereof;

25 (e) Receivables that are payable to a licensee from its authorized  
26 delegates, in the ordinary course of business, pursuant to contracts  
27 which are not past due or doubtful of collection, if the aggregate  
28 amount of receivables under this subsection (1)(e) does not exceed  
29 twenty percent of the total permissible investments of a licensee and  
30 the licensee does not hold, at one time, receivables under this  
31 subsection (1)(e) in any one person aggregating more than ten percent  
32 of the licensee's total permissible investments; and

33 (f) A share or a certificate issued by an open-end management  
34 investment company that is registered with the United States securities  
35 and exchange commission under the Investment Companies Act of 1940 (15  
36 U.S.C. Sec. 80(a)(1) through (64), and whose portfolio is restricted by  
37 the management company's investment policy to investments specified in  
38 (a) through (d) of this subsection.

1 (2) The following investments are permissible under section 22 of  
2 this act, but only to the extent specified as follows:

3 (a) An interest-bearing bill, note, bond, or debenture of a person  
4 whose equity shares are traded on a national securities exchange or on  
5 a national over-the-counter market, if the aggregate of investments  
6 under this subsection (2)(a) does not exceed twenty percent of the  
7 total permissible investments of a licensee and the licensee does not,  
8 at one time, hold investments under this subsection (2)(a) in any one  
9 person aggregating more than ten percent of the licensee's total  
10 permissible investments;

11 (b) A share of a person traded on a national securities exchange or  
12 a national over-the-counter market or a share or a certificate issued  
13 by an open-end management investment company that is registered with  
14 the United States securities and exchange commission under the  
15 Investment Companies Act of 1940 (15 U.S.C. Sec. 80(a)(1) through (64),  
16 and whose portfolio is restricted by the management company's  
17 investment policy to shares of a person traded on a national securities  
18 exchange or a national over-the-counter market, if the aggregate of  
19 investments under this subsection (2)(b) does not exceed twenty percent  
20 of the total permissible investments of a licensee and the licensee  
21 does not, at one time, hold investments under this subsection (2)(b) in  
22 any one person aggregating more than ten percent of the licensee's  
23 total permissible investments;

24 (c) A demand-borrowing agreement made to a corporation or a  
25 subsidiary of a corporation whose securities are traded on a national  
26 securities exchange, if the aggregate of the amount of principal and  
27 interest outstanding under demand-borrowing agreements under this  
28 subsection (2)(c) does not exceed twenty percent of the total  
29 permissible investments of a licensee and the licensee does not, at one  
30 time, hold principal and interest outstanding under demand-borrowing  
31 agreements under this subsection (2)(c) with any one person aggregating  
32 more than ten percent of the licensee's total permissible investments;  
33 and

34 (d) Any other investment the director designates, to the extent  
35 specified in rule by the director.

36 (3) The aggregate of investments under subsection (2) of this  
37 section may not exceed fifty percent of the total permissible  
38 investments of a licensee.

1        NEW SECTION.        **Sec. 24.**        ADMINISTRATIVE PROCEEDINGS.        All  
2 administrative proceedings under this chapter must be conducted in  
3 accordance with the administrative procedure act, chapter 34.05 RCW.  
4 Any licensee or authorized delegate subject to a statement of charges  
5 and order of intent from the director shall be provided with an  
6 opportunity for a hearing as provided for in the administrative  
7 procedure act. Unless the person subject to the order appears in  
8 person or is represented by counsel at the hearing, the person has  
9 consented to issuance of the order. If after a hearing, the director  
10 finds by a preponderance of the evidence that grounds for sanctions  
11 under this chapter exist, then the director may impose any sanctions  
12 authorized by this chapter in a final order. As provided for in  
13 section 28 of this act, a temporary order to cease and desist is  
14 effective upon service upon the licensee or authorized delegate, and  
15 remains effective pending a hearing to determine if the order shall  
16 become permanent.

17        NEW SECTION.        **Sec. 25.**        SUSPENSION, REVOCATION, AND RECEIVERSHIP.

18 (1) The director may issue an order to suspend, revoke, or condition a  
19 license, place a licensee in receivership, revoke the designation of an  
20 authorized delegate, compel payment of restitution by a licensee to  
21 damaged parties, impose civil penalties on a licensee, require  
22 affirmative actions as are necessary by a licensee to comply with this  
23 chapter or rules adopted under this chapter, or remove from office or  
24 prohibit from participation in the affairs of any authorized delegate  
25 or any licensee, or both, any responsible individual, executive  
26 officer, person in control, or employee of the licensee, if:

27        (a) The licensee violates this chapter or a rule adopted or an  
28 order issued under this chapter or is convicted of a violation of a  
29 state or federal money laundering or terrorism statute;

30        (b) The licensee does not cooperate with an examination,  
31 investigation, or subpoena lawfully issued by the director or the  
32 director's designee;

33        (c) The licensee engages in fraud, intentional misrepresentation,  
34 or gross negligence;

35        (d) An authorized delegate is convicted of a violation of a state  
36 or federal money laundering statute, or violates this chapter or a rule  
37 adopted or an order issued under this chapter as a result of the  
38 licensee's willful misconduct or deliberate avoidance of knowledge;



1 (e) The financial condition and responsibility, competence,  
2 experience, character, or general fitness of the licensee, authorized  
3 delegate, person in control of a licensee, or responsible person of the  
4 licensee or authorized delegate indicates that it is not in the public  
5 interest to permit the person to provide money services;

6 (f) The licensee engages in an unsafe or unsound practice, or an  
7 unfair and deceptive act or practice;

8 (g) The licensee is insolvent, fails to maintain the required net  
9 worth, suspends payment of its obligations, or makes a general  
10 assignment for the benefit of its creditors;

11 (h) The licensee does not remove an authorized delegate after the  
12 director issues and serves upon the licensee a final order including a  
13 finding that the authorized delegate has violated this chapter; or

14 (i) The licensee, its responsible individual, or any of its  
15 executive officers or other persons in control of the licensee are  
16 listed or become listed on the specially designated nationals and  
17 blocked persons list prepared by the United States department of the  
18 treasury as a potential threat to commit terrorist acts or to finance  
19 terrorist acts.

20 (2) In determining whether a licensee or other person subject to  
21 this chapter is engaging in an unsafe or unsound practice, the director  
22 may consider the size and condition of the licensee's money  
23 transmission services, the magnitude of the loss or potential loss to  
24 consumers or others, the gravity of the violation of this chapter, any  
25 action against the licensee by another state or the federal government,  
26 and the previous conduct of the person involved.

27 NEW SECTION. **Sec. 26.** SUSPENSION AND REVOCATION OF AUTHORIZED  
28 DELEGATES. (1) The director may issue an order to suspend, revoke, or  
29 condition the designation of an authorized delegate, impose civil  
30 penalties, require payment of restitution to damaged parties, require  
31 affirmative actions as are necessary to comply with this chapter or the  
32 rules adopted under this chapter, or remove from office or prohibit  
33 from participation in the affairs of the authorized delegate or  
34 licensee, or both, any executive officer, person in control, or  
35 employee of the authorized delegate if the director finds that:

36 (a) The authorized delegate violated this chapter or a rule adopted  
37 or an order issued under this chapter;

1 (b) The authorized delegate does not cooperate with an examination,  
2 investigation, or subpoena lawfully issued by the director or the  
3 director's designee;

4 (c) The authorized delegate engaged in fraud, intentional  
5 misrepresentation, or gross negligence;

6 (d) The authorized delegate is convicted of a violation of a state  
7 or federal money laundering or terrorism statute;

8 (e) The competence, experience, character, or general fitness of  
9 the authorized delegate or a person in control of the authorized  
10 delegate indicates that it is not in the public interest to permit the  
11 authorized delegate to provide money services;

12 (f) The authorized delegate engaged in or is engaging in an unsafe  
13 or unsound practice, or unfair and deceptive act or practice; or

14 (g) The authorized delegate, or any of its executive officers or  
15 other persons in control of the authorized delegate, are listed or  
16 become listed on the specially designated nationals and blocked persons  
17 list prepared by the United States department of the treasury as a  
18 potential threat to commit terrorist acts or to finance terrorist acts.

19 (2) In determining whether an authorized delegate is engaging in an  
20 unsafe or unsound practice, the director may consider the size and  
21 condition of the authorized delegate's provision of money services, the  
22 magnitude of the loss or potential loss to consumers or others, the  
23 gravity of the violation of this chapter or a rule adopted or order  
24 issued under this chapter, any action against the authorized delegate  
25 taken by another state or the federal government, and the previous  
26 conduct of the authorized delegate.

27 NEW SECTION. **Sec. 27.** UNLICENSED PERSONS. (1) If the director  
28 has reason to believe that a person has violated or is violating  
29 section 5 or 10 of this act, the director or the director's designee  
30 may conduct an examination or investigation as authorized under section  
31 15 of this act.

32 (2) If as a result of such investigation or examination, the  
33 director finds that a person has violated section 5 or 10 of this act,  
34 the director may issue a temporary cease and desist order as authorized  
35 under section 28 of this act.

36 (3) If as a result of such an investigation or examination, the  
37 director finds that a person has violated section 5 or 10 of this act,  
38 the director may issue an order to prohibit the person from continuing

1 to engage in providing money services, to compel the person to pay  
2 restitution to damaged parties, to impose civil money penalties on the  
3 person, and to prohibit from participation in the affairs of any  
4 licensee or authorized delegate, or both, any executive officer, person  
5 in control, or employee of the person.

6 (4) The director may petition the superior court for the issuance  
7 of a temporary restraining order ex parte under the rules of civil  
8 procedure.

9 NEW SECTION. **Sec. 28.** TEMPORARY ORDERS TO CEASE AND DESIST. (1)  
10 If the director determines that a violation of this chapter or of a  
11 rule adopted or an order issued under this chapter by a licensee,  
12 authorized delegate, or other person subject to this chapter is likely  
13 to cause immediate and irreparable harm to the licensee, its customers,  
14 or the public as a result of the violation, or cause insolvency or  
15 significant dissipation of the assets of the licensee, the director may  
16 issue a temporary order to cease and desist requiring the licensee,  
17 authorized delegate, or other person subject to this chapter to cease  
18 and desist from conducting business in this state or to cease and  
19 desist from the violation or undertake affirmative actions as are  
20 necessary to comply with this chapter, any rule adopted under this  
21 chapter, or order issued by the director under this chapter. The order  
22 is effective upon service upon the licensee, authorized delegate, or  
23 other person subject to this chapter.

24 (2) A temporary order to cease and desist remains effective and  
25 enforceable pending the completion of an administrative proceeding  
26 under chapter 34.05 RCW. If, after a hearing, the director finds that  
27 by a preponderance of the evidence, all or any part of the order is  
28 supported by the facts, the director may make the temporary order to  
29 cease and desist permanent under chapter 34.05 RCW.

30 (3) A licensee, an authorized delegate, or other person subject to  
31 this chapter that is served with a temporary order to cease and desist  
32 may petition the superior court for a judicial order setting aside,  
33 limiting, or suspending the enforcement, operation, or effectiveness of  
34 the order pending the completion of an administrative proceeding under  
35 chapter 34.05 RCW.

36 NEW SECTION. **Sec. 29.** CONSENT ORDERS. The director may enter  
37 into a consent order at any time with a person to resolve a matter

1 arising under this chapter or a rule adopted or order issued under this  
2 chapter. A consent order must be signed by the person to whom it is  
3 issued or by the person's authorized representative, and must indicate  
4 agreement with the terms contained in the order.

5 NEW SECTION. **Sec. 30.** VIOLATIONS--LIABILITY. (1) A licensee is  
6 liable for any conduct violating this chapter or rules adopted under  
7 this chapter committed by employees of the licensee.

8 (2) A licensee that commits willful misconduct in its supervision  
9 of its authorized delegate or willfully avoids knowledge of its  
10 authorized delegate's business activities may be subjected to  
11 administrative sanctions for any violations of this chapter or rules  
12 adopted under this chapter by the licensee's authorized delegates.

13 (3) The responsible individual is responsible under the license and  
14 may be subjected to administrative sanctions for any violations of this  
15 chapter or rules adopted under this chapter committed by the licensee  
16 or, if the responsible individual commits willful misconduct in  
17 supervising an authorized delegate or willfully avoids knowledge of an  
18 authorized delegate's business activities, violations committed by the  
19 licensee's authorized delegates.

20 NEW SECTION. **Sec. 31.** CIVIL PENALTIES. The director may assess  
21 a civil penalty against a licensee, responsible individual, authorized  
22 delegate, or other person that violates this chapter or a rule adopted  
23 or an order issued under this chapter in an amount not to exceed one  
24 hundred dollars per day for each day the violation is outstanding, plus  
25 this state's costs and expenses for the investigation and prosecution  
26 of the matter, including reasonable attorneys' fees.

27 NEW SECTION. **Sec. 32.** CRIMINAL PENALTIES. (1) A person that  
28 intentionally makes a false statement, misrepresentation, or false  
29 certification in a record filed or required to be maintained under this  
30 chapter or that intentionally makes a false entry or omits a material  
31 entry in that record is guilty of a class C felony under chapter 9A.20  
32 RCW.

33 (2) A person that knowingly engages in an activity for which a  
34 license is required under this chapter without being licensed under  
35 this chapter and who receives more than five hundred dollars in

1 compensation within a thirty-day period from this activity is guilty of  
2 a gross misdemeanor under chapter 9A.20 RCW.

3 (3) A person that knowingly engages in an activity for which a  
4 license is required under this chapter without being licensed under  
5 this chapter and who receives no more than five hundred dollars in  
6 compensation within a thirty-day period from this activity is guilty of  
7 a misdemeanor under chapter 9A.20 RCW.

8 NEW SECTION. **Sec. 33.** ADMINISTRATION AND RULE-MAKING POWERS. The  
9 director has the power and broad administrative discretion to  
10 administer and interpret this chapter to fulfill the intent of the  
11 legislature as expressed in section 2 of this act. In accordance with  
12 chapter 34.05 RCW, the director may issue rules under this chapter to  
13 govern the activities of licensees and other persons subject to this  
14 chapter.

15 NEW SECTION. **Sec. 34.** FEES. (1) The director shall establish  
16 fees by rule sufficient to cover the costs of administering this  
17 chapter. The director may establish different fees for each type of  
18 license authorized under this chapter. These fees may include:

19 (a) An annual license assessment specified in rule by the director  
20 paid by each licensee on or before the annual license assessment due  
21 date;

22 (b) A late fee for late payment of the annual license assessment as  
23 specified in rule by the director;

24 (c) An hourly examination or investigation fee to cover the costs  
25 of any examination or investigation of the books and records of a  
26 licensee or other person subject to this chapter;

27 (d) A nonrefundable application fee to cover the costs of  
28 processing license applications made to the director under this  
29 chapter;

30 (e) An initial license fee to cover the period from the date of  
31 licensure to the end of the calendar year in which the license is  
32 initially granted; and

33 (f) A transaction fee or set of transaction fees to cover the  
34 administrative costs associated with processing changes in control,  
35 changes of address, and other administrative changes as specified in  
36 rule by the director.

1 (2) The director shall ensure that when an examination or  
2 investigation, or any part of the examination or investigation, of any  
3 licensee applicant or person subject to licensing under this chapter,  
4 requires travel and services outside this state by the director or  
5 designee, the licensee applicant or person subject to licensing under  
6 this chapter that is the subject of the examination or investigation  
7 shall pay the actual travel expenses incurred by the director or  
8 designee conducting the examination or investigation.

9 (3) All moneys, fees, and penalties collected under this chapter  
10 shall be deposited into the financial services regulation account.

11 NEW SECTION. **Sec. 35. MONEY TRANSMITTER DELIVERY, RECEIPTS, AND**  
12 **REFUNDS.** (1) Every money transmitter licensee and its authorized  
13 delegates shall transmit the monetary equivalent of all money or  
14 monetary value received from a customer for transmission, net of any  
15 fees, or issue instructions committing the monetary value, to the  
16 person designated by the customer within ten business days after  
17 receiving the money or payment instruments, unless otherwise ordered by  
18 the customer or unless the licensee or its authorized delegate has  
19 reason to believe that a crime has occurred, is occurring, or may occur  
20 as a result of transmitting the money. For purposes of this  
21 subsection, money is considered to have been transmitted when it is  
22 available to the person designated by the customer and a reasonable  
23 effort has been made to inform this designated person that the money is  
24 available, whether or not the designated person has taken possession of  
25 the money. As used in this subsection, "monetary equivalent," when  
26 used in connection with a money transmission in which the customer  
27 provides the licensee or its authorized delegate with the money of one  
28 government, and the designated recipient is to receive the money of  
29 another government, means the amount of money, in the currency of the  
30 government that the designated recipient is to receive, as converted at  
31 the retail exchange rate offered by the licensee or its authorized  
32 delegate to the customer in connection with the transaction.

33 (2) Every money transmitter licensee and its authorized delegates  
34 shall provide a receipt to the customer that clearly states the amount  
35 of money presented for transmission, the total of any fees not  
36 including any earnings from currency exchange, the net amount of United  
37 States money transmitted. As used in this section, "fees" does not  
38 include revenue that a licensee or its authorized delegate generates,

1 in connection with a money transmission, in the conversion of the money  
2 of one government into the money of another government.

3 (3) Every money transmitter licensee and its authorized delegates  
4 shall refund to the customer all moneys received for transmittal within  
5 ten days of receipt of a written request for a refund unless any of the  
6 following occurs:

7 (a) The moneys have been transmitted and delivered to the person  
8 designated by the customer prior to receipt of the written request for  
9 a refund;

10 (b) Instructions have been given committing an equivalent amount of  
11 money to the person designated by the customer prior to receipt of a  
12 written request for a refund;

13 (c) The licensee or its authorized delegate has reason to believe  
14 that a crime has occurred, is occurring, or may potentially occur as a  
15 result of transmitting the money as requested by the customer or  
16 refunding the money as requested by the customer; or

17 (d) The licensee is otherwise barred by law from making a refund.

18 NEW SECTION. Sec. 36. PROHIBITED PRACTICES. It is a violation of  
19 this chapter for any licensee, executive officer, responsible  
20 individual, or other person subject to this chapter to:

21 (1) Directly or indirectly employ any scheme, device, or artifice  
22 to defraud or mislead any person;

23 (2) Directly or indirectly engage in any unfair or deceptive act or  
24 practice toward any person;

25 (3) Directly or indirectly obtain property by fraud or  
26 misrepresentation;

27 (4) Knowingly make, publish, or disseminate any false, deceptive,  
28 or misleading information in the provision of money services;

29 (5) Knowingly receive or take possession for personal use of any  
30 property of any money services business, other than in payment for  
31 services rendered, and with intent to defraud, omit to make, or cause  
32 or direct to omit to make, a full and true entry thereof in the books  
33 and accounts of the business;

34 (6) Make or concur in making any false entry, or omit or concur in  
35 omitting any material entry, in the books or accounts of the business;

36 (7) Knowingly make or publish to the director or director's  
37 designee, or concur in making or publishing to the director or  
38 director's designee any written report, exhibit, or statement of its

1 affairs or pecuniary condition containing any material statement which  
2 is false, or omit or concur in omitting any statement required by law  
3 to be contained therein; or

4 (8) Fail to make any report or statement lawfully required by the  
5 director or other public official.

6 NEW SECTION. **Sec. 37.** VIOLATIONS OF CHAPTER--APPLICATION OF  
7 CONSUMER PROTECTION ACT. The legislature finds that the practices  
8 governed by this chapter are matters vitally affecting the public  
9 interest for the purpose of applying the consumer protection act,  
10 chapter 19.86 RCW. Any violation of this section is not reasonable in  
11 relation to the development and preservation of business and is an  
12 unfair and deceptive act or practice and an unfair method of  
13 competition in the conduct of trade or commerce in violation of RCW  
14 19.86.020. Remedies provided by chapter 19.86 RCW are cumulative and  
15 not exclusive.

16 NEW SECTION. **Sec. 38.** EFFECTIVE DATE. This act takes effect  
17 October 1, 2002.

18 NEW SECTION. **Sec. 39.** IMPLEMENTATION. The director or the  
19 director's designee may take such steps as are necessary to ensure that  
20 this act is implemented on its effective date.

21 NEW SECTION. **Sec. 40.** UNIFORMITY OF APPLICATION AND CONSTRUCTION.  
22 In applying and construing this chapter, consideration must be given to  
23 the need to promote uniformity of the law with respect to its subject  
24 matter among states that enact it.

25 NEW SECTION. **Sec. 41.** SEVERABILITY CLAUSE. If any provision of  
26 this act or its application to any person or circumstance is held  
27 invalid, the remainder of the act or the application of the provision  
28 to other persons or circumstances is not affected.

29 NEW SECTION. **Sec. 42.** CAPTIONS NOT LAW. Captions used in this  
30 chapter are not any part of the law.



1        NEW SECTION.    **Sec. 43.**    Sections 1 through 42 of this act  
2    constitute a new chapter in Title 19 RCW.

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