

MONEY TRANSMITTER

LAW REGULATORY UPDATE REVIEW

MONEY TRANSMITTER LAW REGULATORY UPDATE REVIEW

This list includes regulatory updates to all 50 states of the United States of America from January 1, 2012 to August 31, 2013. Effective dates are listed for those regulatory updates which are not yet in effect. Updates will be published on a quarterly basis. Information provided may not be relied upon as legal advice. For additional information or guidance please contact a licensed attorney.

RECENT LEGISLATIVE CHANGES

Arizona (effective Aug. 2, 2012)

Amendments made to A. R. S. § 6-1202 to include limited liability company (i.e., “No person other than a corporation or limited liability company”).

Arkansas (effective Aug. 16, 2013)

Amendment made to AR ST § 23-55-102, 103, 202, 204, 206, 605, 702, to include “prepaid access” (i.e. funds that have been paid in advance that can be transferred in the future). Amends AR ST §23-55-1006 - License Terms

California (effective January 1, 2013)

Colorado (effective June 5, 2013)

Extends the repeal of Article 52 effective Sept. 1, 2024 pursuant to 12-52-117 (prior to such repeal, licensing functions of commissioner and banking board shall be reviewed as provided for in section 24-34-104, C.R.S.), specify board may investigate persons believed to be engaging in MT w/o license; extending time MTs have to notify board of increase in # of locations; adopting some language from UMSA to provide enhanced oversight of substantive changes in bus or fin ops of MTs & inform board and get permission for a change of control of MTs; require securities used in lieu of surety bond to be rated as highest grades by nat. recog. rating orgs; MTs notify, obtain written approval from commission to exchange sec.s used in lieu of a surety bond; require applicants to pay for prelicense on-site investigations; expands deadline to post surety bond and pay license fee; direct board to hold hearing after denial only if applicant requests

Connecticut (effective Oct. 1, 2013)

Amendments to definitions, expands upon who is “engaged in the business of money transmission” and who must have a license, application requirements, requirements for surrender of license, bond requirements and record keeping requirements. The Banking Commissioner must be notified within 15 days of any change to list of authorized delegates or locations.

Hawaii (effective June, 21, 2013)

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Amendment to authorize the Commissioner of Financial Institutions to require money transmitters to register with NMLS, establish procedures for a licensed money transmitter to surrender its license, amend the bond requirement, amend the fee structure for services provided by the Division of Financial Institutions of the DCCA for the regulation of money transmission, and amend the fine for violations of MT regulations.

Indiana (effective July 1, 2014)

Multiple changes are being made to various financial institutions, however, specifically regarding money transmitters it amends statute to name NM. It also repeals provisions that concern the definition, cancellation, and duration of, and alternatives to, a “surety device” for purpose of the statute concerning money transmitter, and concerning the application fee and bond for purposed of the statute concerning money transmitters.

Iowa (approved March 28, 2013)

Changing the license fee, application fee, and month of renewal.

Kansas (effective May 31, 2012)

Amendments made updating Definitions to add “agent” and amend “permissible investments.”

(approved April 5, 2013)

Adds definition of “licensee” & “nationwide multi-state licensing system and registry”, “tangible net worth”, license expiry dates, may use NMLS, agent/location designation procedures, rulemaking authority to commissioner

Kentucky (effective July 12, 2012)

Amendments to permissible investments.

Louisiana

Amendments to the license year schedule from April 15 – April 14 to January 1 – December 31.

Maryland (effective June 1, 2012)

Amendments to participate in the NMLS and modify licensing requirements pursuant, including rule making authority for the Commissioner.

Massachusetts (2012)

Amendments permitting commissioner to engage in a “multi-state licensing system” and requiring annual reports filings.

Minnesota (effective Jan. 1, 2014)

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Amendments to establish fraud prevention measure requirements using “no transmit lists” and requiring certain notifications and verifications

Montana (effective April, 16, 2013)

Amendments change references from Director to Department; limit the exemption for mortgage industry licensees servicing other types of contracts; add an exemption for loan closers; delete automatic license revocation for administrative violations; change entity control requirements; require an annual financial statement; revise enforcement and penalty provisions; changing the license year to coincide with the calendar year and providing for transition; authorize the department of administration to participate in a nationwide licensing system for escrow businesses and; expand rulemaking authority

Nebraska (Approved March 20, 2013)

Amendments to sections 8-601n and 8-602, reissue revised statutes of Nebraska; to adopt the Nebraska Money Transmitters Act; to provide penalties; to eliminate the Nebraska Sale of Checks and Funds Transmission Act; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal sections 8-1001 - 8-1014 and 8-1016 - 8-1019.

New Hampshire (effective September 22, 2013)

Amendment to repeal and reenact 399-G:3 to read: “any person not exempt under RSA 399-G:4 that, in its own name or on behalf of other persons, transmits money from this state or to persons within this state, shall obtain a license from the banking department.” Proposes to amend 399-G:13 to add “Licensees whose authorized delegates are not required to register independently with FinCEN shall ensure that such authorized delegates have adequate written policies and procedures in place to complement effective Bank Secrecy Act and anti-money laundering programs.”

North Carolina (October 1, 2012)

Amendments to give the Banking Commission rulemaking authority.

North Dakota

Amendment create and enact new sections relating to a six-month extension of a collection agency license, a deferred presentment service provider license, and a money transmitter license during the 2014 calendar year, and the confidentiality of information submitted or received by the Commissioner or Commissioner’s designee to a nationwide multistate licensing system; and to amend and reenact sections relating to the confidentiality of information shared with a nationwide multistate licensing system, collection agency license applications, the expiration and renewal of

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a collection agency license, deferred presentment service provider license applications, the expiration and renewal of a deferred presentment service provider license, deferred presentment service transaction procedures, money transmitter license applications, the expiration and renewal of a money transmitter license, and debt-settlement provider license applications

Ohio (effective January 1, 2013)

Amendments to requirements including criminal records checks.

South Dakota

Repeal of § 51A-17-44, which states that any license already held under the previous Money Order Business Licenses statute (all of which have been repealed) should remain in force until it expires)

Tennessee (July 1, 2013)

Amendments to change licensing requirements for money transmitters, require money transmitters to obtain a license under new requirements for 2014, and authorize the Commissioner of Financial Institutions to require money transmitters to be licensed through a multi-state automated licensing system.

Texas (September 1, 2013)

Amendment to add the defined term “depository agent.”

Vermont (effective January 1, 2015)

Amendments to participate in the NMLS and modify licensing requirements pursuant, including rule making authority for the Commissioner. Amendment to issue electronic licenses that are not transferable or assignable.

Virginia (March 12, 2013)

Amendment to an exemption and adding an exemption.

Washington

Amendments to participate in the NMLS and modify licensing requirements pursuant, including rule making authority for the Commissioner.

Wyoming (effective July 1, 2013)

Amendments authorizing use of sub-delegates by authorized delegates of licensees under the Money Transmitter Act, providing banking commissioner with authority over sub-delegates, providing a definition for “sub-delegate” and amending who is required to be licensed.



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PROPOSED LEGISLATION

California [CA Assembly Bill No. 786 (introduced February 21, 2013)]

Proposes amendments to three sections, adding exemptions to money transmissions, minimum net worth requirement, and conditions for eligible securities. Proposes new sections providing the Commissioner with continuous authority to exercise powers and to bring actions, unilaterally or through request to the Attorney General.

Colorado [2013 CSB No. 171 (introduced February 8, 2013)]

Proposals to: extend the repeal date of the licensing of money transmitters until September 1, 2024, specify board may investigate persons believed to be engaging in money transmission without license; extending time money transmitters have to notify board of increase in number of locations; adopting some language from UMSA to provide enhanced oversight of substantive changes in bus or fin ops of MTs & inform board and get permission for a change of control of MTs; require securities used in lieu of surety bond to be rated as highest grades by nationally recognized rating organizations; money transmitters to notify, obtain written approval from commission to exchange securities used in lieu of a surety bond; require applicants to pay for pre-license on-site investigations; expand deadline to post surety bond and pay license fee; direct board to hold hearing after denial only upon request.

Connecticut [2013 CT SB 911 (introduced February 20, 2013)]

Proposals to amend record keeping requirements and notify the Banking Commissioner within 15 days of any change to list of authorized delegates or locations. Proposed effective date of October 2013. Proposals also include amendments to definitions, bonding requirements and expanding who may be required to register.

D.C. [2013 DC L.B. 331 (introduced June 7, 2013)]

The amendments would provide for D.C. compliance with the Secure and Fair Enforcement for the Mortgage Licensing Act of 2008 through the use of NMLS. Proposal to add the defined term “Nationwide Mortgage Licensing System and Registry” or “NMLS” which means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators, or their successors for the licensing and registration of persons engaged in the state-regulated financial service industries. Proposes that each licensee register and maintain a unique identifier with NMLS.

Florida [2013 HB No. 217 (filed January 17, 2013)] [2013 SB 410 (filed January 22, 2013)]
Proposes to add the defined term “database;” grant commissioner power to direct fee



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usage to operation and maintenance of a database; require data reporting to the Office of Financial Regulation, requiring such office to maintain and operate a database. Proposing an effective date of July 2013.

Hawaii [2013 HI SB 1068 (March 1, 2013)] [2013 HI HB 837 (February 15, 2013)]
Proposals to authorize the Commissioner of Financial Institutions to require money transmitters to register with NMLS, establish procedures for a licensed money transmitter to surrender its license, amend the bond requirement, amend the fee structure for services provided by the Division of Financial Institutions of the DCCA for the regulation of money transmission, and amend the fine for violations of MT regulations.

Illinois [2011 IL HB 4451 (January 30, 2012)] [2011 IL SB 2939 (February 1, 2012)]
Proposes amendments to general use prepaid cards, defines the term, and various other related authorized actions.

Indiana [2013 IN HB 1081 (February 1, 2013)]
Proposes to amend statute to define and utilize NMLS. Proposes to repeal provisions that concern the definition, cancellation, and duration of, and alternatives to, a “surety device,” and the application fee.

Iowa [2013 IA HF 353 (February 27, 2013)] [2013 IA SF 181 (February 13, 2013)]
Proposes to change the license fee, application fee, and date of license renewal.

Kansas [2013 KS SB 139 (February 20, 2013)]
Proposes to add the defined term “licensee” & “nationwide multi-state licensing system and registry,” change license expiration dates, permit use of the NMLS, amend agent/location designation procedures, and grant rulemaking authority to commissioner.

Maryland [2013 MD HB 1368 (February 13, 2013)]
Proposes to add “unique identifier,” “control person,” and “branch location” to defined terms, fine tune requirements for the NMLS application/licensure, add exceptions to continuing education requirements for mortgage loan originator who also registers for money transmitter license, allow Commissioner to designate form and process. Proposes July 1, 2013 as the effective date.

Massachusetts [213 MA H 871 (January 16, 2013)]
Proposes to establish uniform enforcement provisions and make other changes applicable to certain licensees under the jurisdiction of the Division of Banks.

Minnesota [2013 MN SF 247 (March 20, 2013)] [2013 MN SF 544 (February 18, 2013)]

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[2013 MN HF 527 (February 13, 2013)]

Proposes to add four additional subdivisions strengthening fraud prevention measures.

Mississippi [2013 MS HB 736 (January 21, 2013)] [2013 MS SB 2599 (January 21, 2013)]
Proposes to delete the provisions that require the Commissioner of Banking to forward to the Department of Public Safety the set of fingerprints submitted with an application for a license under the act, amend section 75-15-19 to provide a cap on the examination fee, amend 75-15-23 to delete prohibition on agents of licensees from also being agents of other licensee under the act. Proposes an effective date of July 1, 2013.

Montana [2013 MT HB 117 (December 14, 2012)]

Proposes to: change references from Director to Department; limit the exemption for mortgage industry licensees servicing other types of contracts; add an exemption for loan closers; delete automatic license revocation for administrative violations; change entity control requirements; require an annual financial statement; revise enforcement and penalty provisions; changing the license year to coincide with the calendar year and providing for transition; authorize the department of administration to participate in a nationwide licensing system for escrow businesses and; expand rulemaking authority

New Hampshire [2012 NH HB 1700 (January, 2012)]

Proposes to repeal the money transmitter act, 399-G. The proposed act has only been introduced in the House and not the Senate. Currently buried in committee, it was due out November 2012, but there has been no update.

New Jersey [2012 NJ A.B. 2859 (May 10, 2012)]

Proposes to make small revisions to the New Jersey Money Transmitters Act, provide consumer protections, and increase reporting and record keeping requirements.

New York [2013 NY AB 2469 (January 15, 2013)]

Proposes to clarify the definition of illegal money transmission and increase the penalties for certain activities by licensed and unlicensed money transmitters.

New York [2013 NY SB 2931 (January 25, 2013)]

Proposes to separate the current Class E felony penalties for the unlicensed transmission of money into two categories: 1) the existing violation regarding the unlicensed transmission of funds in excess of a specified threshold would continue to be a Class E felony; and 2) the existing violation regarding the unlicensed transmission of funds where the transmitter knows that such funds are the proceeds of any criminal conduct would be raised from a Class E felony to a Class D felony.

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New York [2013 NY SB 2932 (January 25, 2013)]

Proposes to expand the definition of engaging in the business of money transmission within the state of New York.

New York [2013 NY SB 3930 (February 27, 2013)]

Proposes to require agents of licensed money transmitters to remit moneys to the licensee within the time frame provided in the contract between the agent and the licensee; makes agents liable for treble damages for failure to remit moneys in a timely manner.

Oklahoma [2013 OK HB 1599 (February 25, 2013)]

Proposes to require the display of money transmitter license certificate.

Tennessee [2013 TN SB 168 (January 30, 2013)]

Proposes to change the licensing requirements for money transmitters, requires money transmitters to obtain a license under new requirements for 2014, and authorizes the commissioner of financial institutions to require money transmitters to be licensed through a multi-state automated licensing system.

Tennessee [2013 TN HB 733 (February 04, 2013)]

Proposes to increase from a \$1,000 maximum amount to a \$1,500 maximum amount, that the commissioner of financial institutions may order as a civil penalty for a person to pay for a violation of the Tennessee Money Transmitter Act of 1994. Also proposes to increase, by the same amount for per day, the assessments for continuing violations.

Texas [2013 TX SB 1005 (March 27, 2013)] [2013 TX HB 2505 (March 8, 2013)]

Proposes to utilize the NMLS, allow greater authority to Commissioner, change renewal and report annual dates, expand who should be listed in current list of authorized delegates.

Washington [2013 WA SB 5209 (February 15, 2013)] [2013 WA HB 1327 (February 13, 2013)]

Proposes to make minor amendments to definitions, to require additional background information and fingerprinting for certain associated individuals for initial application and license renewals, to require additional information for quarterly authorized delegate list, and to increase the power of the Director of the Department of Financial Institutions by explicitly providing interpretative and administrative authority and discretion.

West Virginia [2012 WV HB 4248 (January 20, 2012)]

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Providing Commissioner with authority to establish relationships or contracts with NMLS or entities designated by NMLS and Registry to collect and maintain records related to criminal background investigations.

