

1 HB215  
2 181769-3  
3 By Representative Johnson (K)  
4 RFD: Financial Services  
5 First Read: 14-FEB-17



1           Section 1. Chapter 7 (commencing with Section 8-7-1)  
2 of Title 8 of the Code of Alabama 1975, relating to the sale  
3 of checks, is repealed.

4           Section 2. Chapter 7A (commencing with Section  
5 8-7A-1) of Title 8 is added to Title 8 of the Code of Alabama  
6 1975, to read as follows:

7           Chapter 7A. Alabama Monetary Transmission Act.

8           §8-7A-1 Short title.

9           This chapter may be cited as the Alabama Monetary  
10 Transmission Act.

11          §8-7A-2. Definitions.

12          For purposes of this chapter, the following terms  
13 shall have the following meanings:

14           (1) AGENT or AUTHORIZED DELEGATE. Any person  
15 designated or employed by a licensee under this chapter to  
16 provide monetary transmission services on behalf of the  
17 licensee.

18           (2) APPLICANT. Any person that files an application  
19 for a license under this chapter.

20           (3) BANK. An institution organized under federal or  
21 state law which meets any of the following requirements:

22           a. Accepts demand deposits or deposits that the  
23 depositor may use for payment to third parties and engages in  
24 the business of making loans.

25           b. Engages in credit card operations and maintains  
26 only one office that accepts deposits, does not accept demand  
27 deposits or deposits that a depositor may use for payments to

1 third parties, does not accept a savings or time deposit less  
2 than one hundred thousand dollars (\$100,000), and does not  
3 engage in the business of making commercial loans.

4 c. Is a trust company subject to the jurisdiction of  
5 the Alabama State Banking Department, or subject to another  
6 state or federal banking regulatory authority.

7 (4) COMMISSION. The Alabama Securities Commission,  
8 its director, officers, or any person authorized to act on its  
9 behalf.

10 (5) CONTROL. Any of the following:

11 a. The ownership of, or the power to vote, directly  
12 or indirectly, at least 25 percent of a class of voting  
13 securities or voting interests of a licensee or person in  
14 control of a licensee.

15 b. The power to elect a majority of executive  
16 officers, managers, directors, trustees, or other persons  
17 exercising managerial authority of a licensee or person in  
18 control of a licensee.

19 c. The power to exercise, directly or indirectly, a  
20 controlling influence over the management or policies of a  
21 licensee or person in control of a licensee.

22 (6) EXECUTIVE OFFICER. A president, chair of the  
23 executive committee, chief financial officer, responsible  
24 individual, or other individual who performs similar  
25 functions.

26 (7) LICENSEE. A person licensed under this chapter.

1 (8) MONETARY VALUE. A medium of exchange, including  
2 virtual or fiat currencies, whether or not redeemable in  
3 money.

4 (9) MONEY. A medium of exchange that is authorized  
5 or adopted by the United States or a foreign government. The  
6 term includes a monetary unit of account established by an  
7 intergovernmental organization or by agreement between two or  
8 more governments.

9 (10) MONEY TRANSMISSION. Selling or issuing payment  
10 instruments, stored value, or receiving money or monetary  
11 value for transmission. The term does not include the  
12 provision solely of delivery, online or telecommunications  
13 services, or network access.

14 (11) PAYMENT INSTRUMENT. A check, draft, money  
15 order, traveler's check, or other means utilized for the  
16 transmission or payment of money or monetary value, whether or  
17 not negotiable. The term does not include a credit voucher,  
18 letter of credit, or instrument that is redeemable by the  
19 issuer in goods and services.

20 (12) PERSON. An individual, corporation, business  
21 trust, estate, trust, partnership, limited liability company,  
22 association, joint venture, government; governmental  
23 subdivision, agency or instrumentality; public corporation; or  
24 any other legal or commercial entity.

25 (13) RECORD. Information that is inscribed on a  
26 tangible medium or that is stored in an electronic or other  
27 medium and is retrievable in perceivable form.

1           (14) RESPONSIBLE INDIVIDUAL. An individual who is  
2 employed by a licensee and has managerial authority over the  
3 provision of the money transmittal services of the licensee in  
4 this state.

5           (15) STORED VALUE. Monetary value that is evidenced  
6 by an electronic record.

7           (16) UNSAFE OR UNSOUND PRACTICE. A practice or  
8 conduct by a person licensed to engage in money transmission  
9 or an authorized delegate of such person which creates the  
10 likelihood of material loss, insolvency, or dissipation of the  
11 licensee's assets, or otherwise prejudices the interests of  
12 its customers or a practice or conduct defined by rule of the  
13 commission to be an unsafe or unsound practice.

14           §8-7A-3 Exclusions.

15           This chapter does not apply to any of the following:

16           (1) The United States or a department, agency, or  
17 instrumentality thereof.

18           (2) The transmission of money by the United States  
19 Postal Service or by a contractor on behalf of the United  
20 States Postal Service.

21           (3) A state, county, city, or any other governmental  
22 agency or governmental subdivision of a state.

23           (4) Electronic funds transfer of governmental  
24 benefits for a federal, state, or governmental agency by a  
25 contractor on behalf of the United States or a department,  
26 agency, or instrumentality thereof, or a state or governmental  
27 subdivision, agency, or instrumentality thereof.

1           (5) A board of trade designated as a contract market  
2 under the federal Commodity Exchange Act, 7 U.S.C. Sections  
3 1-25 (1994), or a person that, in the ordinary course of  
4 business, provides clearance and settlement services for a  
5 board of trade to the extent of its operation as or for such a  
6 board.

7           (6) A registered futures commission merchant under  
8 the federal commodities laws to the extent of its operation as  
9 such a merchant.

10           (7) A bank, bank holding company, office of an  
11 international banking corporation, or a branch of a foreign  
12 bank, provided that such international banking corporation or  
13 foreign bank is subject to regulation significantly similar to  
14 United States or state chartered banks and deposits are  
15 insured.

16           §8-7A-4. Exemptions from licensing.

17           Sections 8-7A-5 to 8-7A-15, inclusive, shall not  
18 apply to any of the following persons:

19           (1) A person that provides clearance or settlement  
20 services pursuant to a registration as a clearing agency or an  
21 exemption from such registration granted under the federal  
22 securities laws.

23           (2) An operator of a payment system to the extent  
24 that it provides processing, clearing, or settlement services,  
25 between or among persons excluded by this section, in  
26 connection with wire transfers, credit card transactions,

1 debit card transactions, stored-value transactions, automated  
2 clearing house transfers, or similar funds transfers.

3 (3) A person registered as a securities  
4 broker-dealer under federal or state securities laws to the  
5 extent of its operation as such a broker-dealer.

6 (4) Any person collecting, forwarding, or submitting  
7 payments to the state, a state agency, board, or commission, a  
8 quasi-governmental agency, or to persons in state custody,  
9 provided the person does all of the following:

10 a. Operates in this state exclusively for such  
11 purpose.

12 b. Has entered into a binding contract with the  
13 governmental entity or entities to provide money transmittal  
14 services to third parties.

15 c. Files a notice with the commission identifying  
16 all governmental agencies for whom the person has contracted  
17 to provide money transmittal services.

18 d. Has an independent audit performed on a yearly  
19 basis.

20 e. Immediately notifies the commission if any  
21 financial or other condition arises which would compromise the  
22 person's ability to perform the services for which the person  
23 has contracted.

24 f. Maintains a segregated account or accounts for  
25 the deposit and transmittal of third-party payments which will  
26 not be comingled with any other funds.

1           g. Upon request, makes its books and records  
2 available for examination by the commission.

3           §8-7A-5. License required.

4           (a) A person may not engage in the business of money  
5 transmission or advertise, solicit, or hold itself out as  
6 providing money transmission unless the person meets one of  
7 the following requirements:

8                 (1) Is licensed under this chapter.

9                 (2) Is an authorized delegate of a person licensed  
10 under this chapter.

11           (b) A license under this chapter is not transferable  
12 or assignable.

13           §8-7A-6. Application for license.

14           (a) A person applying for a license under this  
15 chapter shall do so in a form and in a medium prescribed by  
16 the commission. The application shall contain all of the  
17 following information:

18                 (1) The legal name, the residential address of the  
19 applicant if the applicant is an individual, the business  
20 addresses of the applicant, and any fictitious or trade name  
21 used by the applicant in conducting its business.

22                 (2) A list of any criminal convictions of the  
23 applicant and any material litigation in which the applicant  
24 has been involved in the 10-year period preceding the  
25 submission of the application.

26                 (3) A description of any money transmission services  
27 previously provided by the applicant.

1 (4) A list of the proposed authorized delegates of  
2 the applicant and the locations in this state where the  
3 applicant and its authorized delegates propose to engage in  
4 money transmission services.

5 (5) A list of other states in which the applicant is  
6 licensed to engage in money transmission or provide other  
7 money services and any license revocations, suspensions, or  
8 other disciplinary action taken against the applicant in  
9 another state.

10 (6) Information concerning any bankruptcy within the  
11 last seven years, or receivership proceedings affecting the  
12 applicant or any control person or affiliate of the applicant.

13 (7) A sample form of any contract the applicant  
14 proposes to use, including both of the following:

15 a. Any contract to be used by an authorized delegate  
16 or agent of the applicant.

17 b. Any contract to be used with consumers relating  
18 to the provision of money transmission services.

19 (8) A sample form of any payment instrument or  
20 instrument upon which stored value is recorded, if applicable.

21 (9) The names and addresses of any banks through  
22 which the applicant's payment instruments and stored value  
23 will be paid.

24 (10) Any other information the commission reasonably  
25 requires with respect to the applicant.

26 (b) If an applicant is not an individual or natural  
27 person, in addition to the information required in subsection

1 (a), the applicant shall provide all of the following  
2 information:

3 (1) The date of the applicant's incorporation or  
4 formation and state or country of incorporation or formation.

5 (2) A certificate of good standing from the state or  
6 country in which the applicant is incorporated or formed and  
7 proof of registration with the Alabama Secretary of State to  
8 do business as a foreign corporation, if incorporated in  
9 another state or country.

10 (3) A brief description of the structure or  
11 organization of the applicant, including any parent,  
12 affiliate, or subsidiary of the applicant, and whether any  
13 parent, affiliate, or subsidiary is publicly traded.

14 (4) The legal name, any fictitious name, all  
15 business and residential addresses, and the employment, for  
16 the 10 years preceding the submission of the application for  
17 each executive officer, manager, director, or a person who has  
18 direct or indirect control of the applicant.

19 (5) A list of criminal convictions of, and material  
20 litigation involving, any executive officer, manager,  
21 director, or a person who has direct or indirect control of  
22 the applicant, for the 10 years preceding the submission of  
23 the application.

24 (6) A copy of the applicant's audited financial  
25 statements for the most recent fiscal year and, if available,  
26 for the two-year period preceding the submission of the  
27 application.

1           (7) A copy of the applicant's unconsolidated  
2 financial statements for the current fiscal year.

3           (8) If the applicant has a registered agent in this  
4 state, the name and address of the applicant's registered  
5 agent.

6           (9) Any other information the commission reasonably  
7 requires with respect to the applicant.

8           (c) A nonrefundable filing fee and a license fee  
9 shall accompany an application for a license under this  
10 chapter. The commission may set the filing and license fees by  
11 rule. The minimum filing fee and license fee shall not be less  
12 than five hundred dollars (\$500), respectively.

13           (d) The commission may waive one or more of the  
14 requirements in subsections (a) and (b) or permit an applicant  
15 to submit alternate information in lieu of the required  
16 information.

17           §8-7A-7. Security.

18           (a) A licensee shall maintain a surety bond, letter  
19 of credit, or other similar security in an amount, determined  
20 by rule or order of the commission, sufficient to secure  
21 faithful performance of the obligations of the licensee with  
22 respect to money transmission in Alabama.

23           (b) Security must be in a form satisfactory to the  
24 commission and payable to the commission for the benefit of  
25 any claimant against the licensee.

1 (c) A claimant against a licensee may maintain an  
2 action on the bond, or the commission may maintain an action  
3 on behalf of the claimant.

4 (d) A surety bond must cover claims for a minimum of  
5 five years after the licensee ceases to provide money  
6 transmission services in this state. The surety bond may be  
7 reduced or eliminated, at the discretion of the commission, to  
8 the extent the amount of the licensee's outstanding payment  
9 instruments and stored-value obligations are less than the  
10 surety bond coverage.

11 (e) The commission has discretion to accept other  
12 forms of security in lieu of the bond.

13 (f) In no event shall the bond be set at an amount  
14 less than one hundred thousand dollars (\$100,000), or the  
15 average daily outstanding obligations for money received for  
16 transmission in Alabama plus 50 percent of the average daily  
17 outstanding payment instrument and stored value obligations in  
18 Alabama, whichever is greater.

19 (g) The commission may increase the amount of  
20 security required to a maximum of five million dollars  
21 (\$5,000,000) if the financial condition of a licensee so  
22 requires, as evidenced by reduction of net worth, financial  
23 losses, or other relevant criteria.

24 §8-7A-8. Issuance of license.

25 (a) When an application is filed under this chapter,  
26 the commission shall investigate the applicant's financial  
27 condition and responsibility, financial and business

1 experience, character, and general fitness. The commission may  
2 conduct an on-site investigation of the applicant, the  
3 reasonable cost of which the applicant must pay. The  
4 commission shall issue a license to an applicant under this  
5 chapter if the commission finds that both of the following  
6 conditions have been fulfilled:

7 (1) The applicant has complied with Sections 8-7A-6  
8 and 8-7A-7.

9 (2) The financial condition and responsibility,  
10 financial and business experience, competence, character, and  
11 general fitness of the applicant; and the competence,  
12 experience, character, and general fitness of the executive  
13 officers, managers, directors, and persons in control of, the  
14 applicant indicate that it is in the interest of the public to  
15 permit the applicant to engage in money transmission.

16 (b) When an application for an original license  
17 under this chapter is determined by the commission to be  
18 complete, the commission shall promptly notify the applicant  
19 in writing of the date on which the application was determined  
20 to be complete, and:

21 (1) The commission shall approve or deny the  
22 application within 120 days after that date.

23 (2) If the application is not approved or denied  
24 within 120 days after that date, the application is approved,  
25 and the license takes effect as of the first business day  
26 after expiration of the 120-day period.

1 (c) The commission may for good cause extend the  
2 application period.

3 §8-7A-9. Renewal of license.

4 (a) All licenses under this chapter shall expire on  
5 March 31 of the calendar year.

6 (b) A licensee under this chapter shall pay an  
7 annual renewal fee no later than March 15. The renewal fee  
8 shall be established by rule of the commission and shall not  
9 be less than five hundred dollars (\$500).

10 (c) A licensee under this chapter shall submit a  
11 renewal report with the renewal fee, in a form and in a medium  
12 prescribed by the commission. The renewal report shall contain  
13 the following information:

14 (1) A copy of the licensee's most recent audited  
15 financial statement.

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

21 (3) A description of each material change in  
22 information submitted by the licensee in its original license  
23 application which has not been reported to the commission.

24 (4) Proof that the licensee continues to maintain  
25 adequate security as required by Section 8-7A-7.

1           (5) A list of the locations in this state where the  
2 licensee or an authorized delegate of the licensee engages in  
3 money transmission.

4           (d) The renewal license shall become immediately  
5 effective upon the expiration of the current license if the  
6 licensee has submitted the renewal fee pursuant to subsection  
7 (b) and the required reports pursuant to subsection (c) to the  
8 commission.

9           (e) If the licensee fails to renew the license prior  
10 to March 31, the licensee shall have 20 days from the  
11 expiration date to submit the renewal fee and report required  
12 pursuant to subsections (b) and (c), plus a late fee of one  
13 hundred dollars (\$100) for each day between expiration of the  
14 license and submission of the renewal report. If the licensee  
15 perfects renewal of the license prior to the expiration of the  
16 20 days, the license renewal shall be effective on April 1,  
17 and the licensee shall not be liable for unlicensed monetary  
18 transmission during the period between the statutory  
19 expiration date and the date the renewal is perfected.

20           (f) The commission, for good cause, may grant an  
21 extension of the renewal date.

22           §8-7A-10. Net worth.

23           A licensee under this chapter shall maintain a net  
24 worth of at least twenty-five thousand dollars (\$25,000)  
25 determined in accordance with generally accepted accounting  
26 principles.

1                   §8-7A-11. Relationship between licensee and  
2 authorized delegate.

3                   (a) A contract between a licensee and an authorized  
4 delegate shall require the authorized delegate to operate in  
5 full compliance with this chapter.

6                   (b) The licensee shall establish, furnish, and  
7 enforce policies and procedures sufficient to ensure that its  
8 authorized delegates comply with this chapter.

9                   (c) An authorized delegate may not use a subdelegate  
10 to conduct money transmission on behalf of a licensee.

11                   §8-7A-12. Examinations.

12                   (a) The commission may conduct an annual examination  
13 of a licensee or of any of its authorized delegates.

14                   (b) The commission may examine a licensee or its  
15 authorized delegate, at any time, if the commission has reason  
16 to believe that the licensee or authorized delegate is  
17 engaging in an unsafe or unsound practice or has violated or  
18 is violating this chapter or any rule adopted or order issued  
19 under this chapter.

20                   (c) If the commission concludes that an on-site  
21 examination is necessary under subsection (b), the licensee  
22 shall pay the reasonable cost of the examination.

23                   (d) Information obtained during any examination  
24 under this chapter may be disclosed only as prescribed in  
25 Section 8-7A-21.

26                   §8-7A-13. Reports.

1 (a) A licensee shall file a report to the commission  
2 within 15 business days of any material change in information  
3 provided in a licensee's application.

4 (b) A licensee shall file a report with the  
5 commission within five business days after the licensee has  
6 reason to know of the occurrence of any of the following  
7 events:

8 (1) The filing of a petition by or against the  
9 licensee under the United States Bankruptcy Code for  
10 bankruptcy or reorganization.

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

16 (3) The commencement of a proceeding to revoke or  
17 suspend its license in a state or country in which the  
18 licensee engages in business or is licensed.

19 (4) The cancellation or other impairment of the  
20 licensee's bond or other security.

21 (5) A charge or conviction of the licensee or of an  
22 executive officer, manager, commission, or other control  
23 person of the licensee for a felony.

24 (6) A charge or conviction of an authorized delegate  
25 of the licensee for a felony.

1           (7) The executive officers, managers, directors, an  
2 authorized delegate, or persons in control of the licensee are  
3 named in any material civil litigation or class action.

4           (c) (1) A licensee shall give notice of a proposed  
5 change of control within 15 days after learning of the  
6 proposed change in control.

7           (2) The commission shall approve a request for  
8 change of control if, after investigation, the commission  
9 determines that the person or group of persons requesting  
10 approval has the competence, experience, character, and  
11 general fitness to operate the licensee or person in control  
12 of the licensee in a lawful and proper manner and that the  
13 public interest will not be jeopardized by the change of  
14 control.

15           (3) The commission shall approve or deny a request  
16 for change of control within 120 days after the notice. If the  
17 request has not been approved or denied within 120 days, the  
18 request will be deemed to have been approved and will take  
19 effect on the first day after the expiration of the 120 days.

20           (d) A licensee and an authorized delegate shall  
21 maintain a file of all reports required by federal currency  
22 reporting, record keeping, and suspicious transaction  
23 reporting requirements as set forth in 31 U.S.C. Section 5311  
24 (1994), and other federal and state laws pertaining to money  
25 laundering. If an investigation or other inquiry is initiated  
26 by any regulatory authority, the licensee shall immediately

1 notify the commission and forward all records associated with  
2 such investigation or inquiry.

3 §8-7A-14. Records.

4 (a) A licensee shall maintain all of the following  
5 records for determining its compliance with this chapter:

6 (1) A record of each payment instrument or  
7 stored-value obligation sold.

8 (2) A general ledger posted at least monthly  
9 containing all assets, liabilities, capital, income, and  
10 expense accounts.

11 (3) Bank statements and reconciliation records.

12 (4) Records of outstanding payment instruments and  
13 stored-value obligations.

14 (5) Records of each payment instrument and  
15 stored-value obligation paid within a five-year period.

16 (6) A list of names and addresses of all of the  
17 licensee's authorized delegates.

18 (7) Any other record the commission requires by  
19 rule.

20 (b) The records referenced in subsection (a) shall  
21 be maintained by the licensee for a minimum of five years.  
22 Records may be maintained outside of the state.

23 (c) All records of a licensee, authorized delegate,  
24 or applicant shall be subject to reasonable, periodic, or  
25 special examination, at any time or from time to time, whether  
26 the records are located within or outside of this state, as  
27 the commission deems necessary or appropriate to the public

1 interest. The licensee shall make any record available for  
2 inspection by the commission within five business days of the  
3 request.

4 §8-7A-15. Suspension and revocation.

5 (a) The commission, by order, may suspend or revoke  
6 a license or order a licensee to revoke the designation of an  
7 authorized delegate, with or without prior notice, if the  
8 commission finds that such an order is in the best interest of  
9 the public, and any of the following circumstances exist:

10 (1) The licensee has violated any provision of this  
11 chapter or a rule adopted or an order issued under this  
12 chapter.

13 (2) The licensee, or any authorized delegate, does  
14 not cooperate with an examination or investigation by the  
15 commission.

16 (3) The licensee, or any authorized delegate,  
17 engaged in fraud, intentional misrepresentation, or gross  
18 negligence.

19 (4) An authorized delegate is convicted of a  
20 violation of a state or federal anti-money laundering statute,  
21 or willfully violates a rule adopted or an order issued under  
22 this chapter.

23 (5) The competence, experience, character, or  
24 general fitness of the licensee, authorized delegate, or a  
25 control person of a licensee indicates that it is not in the  
26 public interest to permit the person to provide money  
27 transmission services.

1           (6) The licensee becomes insolvent, suspends payment  
2 of its obligations, or makes a general assignment for the  
3 benefit of its creditors.

4           (7) The licensee engages in an unsafe or unsound  
5 practice. In determining whether a licensee is engaging in an  
6 unsafe or unsound practice, the commission may consider the  
7 size and financial condition of the licensee's money  
8 transmission business, the magnitude of any losses, the  
9 severity of the violation of this chapter, and the previous  
10 disciplinary history of the person involved.

11           (b) The commission may issue an order suspending or  
12 revoking the designation of an authorized delegate, if the  
13 commission finds that such order is in the best interest of  
14 the public, and any of the following circumstances exist:

15           (1) The authorized delegate has violated any  
16 provision of this chapter or a rule adopted or an order issued  
17 under this chapter.

18           (2) The authorized delegate does not cooperate with  
19 an examination or investigation by the commission.

20           (3) The authorized delegate engaged in fraud,  
21 intentional misrepresentation, or gross negligence.

22           (4) An authorized delegate is convicted of a  
23 violation of a state or federal anti-money laundering statute,  
24 or willfully violates a rule adopted or an order issued under  
25 this chapter.

26           (5) The competence, experience, character, or  
27 general fitness of the authorized delegate indicates that it

1 is not in the public interest to permit the person to provide  
2 money transmission services.

3 (6) The authorized delegate engages in an unsafe or  
4 unsound practice. In determining whether a licensee is  
5 engaging in an unsafe or unsound practice, the commission may  
6 consider the size and financial condition of the licensee's  
7 money transmission business, magnitude of any losses, severity  
8 of the violation of this chapter, and previous disciplinary  
9 history of the person involved.

10 §8-7A-16. Unauthorized activities.

11 A person may not provide monetary transmission  
12 services on behalf of a person required to be licensed who is  
13 not licensed under this chapter. The commission, by rule or  
14 order, may further define unauthorized activities.

15 §8-7A-17. Orders to cease and desist and other  
16 injunctive or civil relief.

17 (a) If the commission determines that any person has  
18 engaged in or is about to engage in any act or practice  
19 constituting a violation of this chapter or a rule adopted or  
20 an order issued under this chapter, the commission, in its  
21 discretion, may do any of the following:

22 (1) Issue an order, with or without a prior hearing  
23 or notice, against the person or persons engaged in the act or  
24 practice, directing them to cease and desist from engaging in  
25 the act or practice.

26 (2) Issue an order appointing a receiver or  
27 conservator over a respondent or the respondent's assets.

1           (3) Order restitution or disgorgement against any  
2 person who has violated this chapter or any rule adopted or  
3 order issued pursuant to this chapter.

4           (3) Bring an action in any court of competent  
5 jurisdiction to enjoin an act or practice and to enforce  
6 compliance with this chapter or any rule adopted or order  
7 issued hereunder. Upon a proper showing, the court may issue a  
8 temporary restraining order or permanently enjoin any unlawful  
9 act or practice.

10           (b) The commission shall not be required to post a  
11 bond.

12           §8-7A-18. Consent orders.

13           The commission may enter into a consent order at any  
14 time with a person to resolve a matter arising under this  
15 chapter or a rule adopted or order issued under this chapter.  
16 A consent order must be signed by the person to whom it is  
17 issued or by the person's authorized representative, and must  
18 indicate agreement with the terms contained in the order.

19           §8-7A-19. Civil penalties.

20           (a) The commission may assess a civil penalty  
21 against a person that violates this chapter or a rule adopted  
22 or an order issued under this chapter in an amount not to  
23 exceed one thousand dollars (\$1,000) per day for each day the  
24 violation is outstanding.

25           (b) In addition to the assessment in subsection (a),  
26 the commission may assess a charge for the actual cost of any  
27 investigation resulting from any violation of this chapter, a

1 violation of any rule or order issued under this chapter, or  
2 the cost of any examination made by the commission pursuant to  
3 this chapter, to the person or persons subject to such  
4 investigation or examination. All assessments collected under  
5 this subsection shall be deposited in the Alabama Securities  
6 Commission Fund in the State Treasury to be drawn upon by the  
7 commission for its use in administration of this chapter.

8 §8-7A-20. Criminal penalties.

9 (a) A person that intentionally makes a false  
10 statement, misrepresentation, or false certification in a  
11 record filed or required to be maintained under this chapter  
12 or that intentionally makes a false entry or omits a material  
13 entry in such a record, upon conviction, shall be guilty of a  
14 Class D felony.

15 (b) A person that knowingly engages in an activity  
16 for which a license is required under this chapter without  
17 being licensed under this chapter and who receives more than  
18 five thousand dollars (\$5,000) in compensation within a  
19 one-year period from this activity, upon conviction, shall be  
20 guilty of a Class C felony.

21 (c) A person that knowingly engages in an activity  
22 for which a license is required under this chapter without  
23 being licensed under this chapter and who receives no more  
24 than five thousand dollars (\$5,000) in compensation within a  
25 one-year period from this activity, upon conviction, shall be  
26 guilty of a Class D felony.

1 (d) The enforcement of this chapter shall be vested  
2 in the commission. It is the duty of the commission to enforce  
3 this chapter and to investigate, prevent, and detect  
4 violations of this chapter. The commission is vested with the  
5 rights, privileges, and powers conferred by law upon district  
6 attorneys, including the power to appear before grand juries  
7 and to interrogate witnesses before such grand jury. A  
8 district attorney may empower the commission to proceed on its  
9 behalf in any proceeding under this chapter.

10 (e) In any proceeding under this chapter, scienter  
11 need not be alleged and proved in prosecutions of violations  
12 involving unlicensed money transmission.

13 (f) A proceeding under this chapter shall not  
14 preempt or foreclose any criminal action or liability which  
15 may arise under any other criminal provision of the Code of  
16 Alabama 1975.

17 §8-7A-21. Confidentiality.

18 (a) Except as otherwise provided in subsection (b),  
19 all information or reports obtained by the commission from the  
20 applicant, licensee, or authorized delegate and all  
21 information contained in or related to examination,  
22 investigation, operation, or condition reports prepared by, or  
23 on behalf of, or for the use of the commission, are  
24 confidential and are not subject to disclosure under Section  
25 36-12-40.

26 (b) The commission may disclose information not  
27 otherwise subject to disclosure under subsection (a) to

1 representatives of state and federal agencies, provided the  
2 agencies submit an undertaking to maintain the confidentiality  
3 of the information in a record.

4 (c) This section does not prohibit the commission  
5 from disclosing to the public a list of persons licensed under  
6 this chapter or the aggregated financial data concerning those  
7 licensees.

8 §8-7A-22. Cooperation.

9 The commission may consult and cooperate with other  
10 federal and state agencies in enforcing and administering this  
11 chapter. The commission may jointly pursue examinations and  
12 take other official action that it is otherwise empowered to  
13 take.

14 §8-7A-23. Investigation and subpoenas by commission.

15 (a) The commission may do any of the following:

16 (1) Make such public or private investigations  
17 within or outside of this state as it deems necessary to  
18 determine whether: Any license under this chapter should be  
19 granted, denied, suspended, or revoked; any person has  
20 violated or is about to violate any provision of this chapter  
21 or any rule or order hereunder; or to aid in the enforcement  
22 of this chapter or in the prescribing of rules and forms  
23 hereunder.

24 (2) Require or permit any person to file a statement  
25 in writing, under oath, or otherwise as the commission may  
26 determine, as to all the facts and circumstances concerning  
27 the matter to be investigated.

1           (3) Publish information concerning any violation of  
2 this chapter or any rule or order hereunder.

3           (b) In relation to any investigation or proceeding  
4 under this chapter, the commission, or any officer designated,  
5 may administer oaths and affirmations, subpoena witnesses,  
6 compel their attendance, take evidence, and require the  
7 production of any books, papers, correspondence, memoranda,  
8 agreements, or other documents or records which the commission  
9 deems relevant to the inquiry.

10           (c) In case of refusal to obey a subpoena, upon  
11 application by the commission, any court of competent  
12 jurisdiction may issue an order to the person failing to obey  
13 the subpoena requiring that person to appear before the  
14 commission or the officer designated by it, to produce  
15 documentary evidence if so ordered, or to give evidence  
16 touching the matter under investigation or in question. The  
17 court may hold any person who fails to obey an order of the  
18 court in contempt of court.

19           (d) No person is excused from attending and  
20 testifying or from producing any document or record before the  
21 commission or any officer designated by it, in any proceeding  
22 instituted by the commission, on the ground that the testimony  
23 or evidence, documentary or otherwise, required of the person  
24 may tend to incriminate him or her or subject him or her to a  
25 penalty or forfeiture; provided, no individual may be  
26 prosecuted or subjected to any penalty or forfeiture using or  
27 based on information he or she offered after asserting such

1 privilege, except that the individual so testifying shall not  
2 be exempt from prosecution and punishment for perjury  
3 committed in so testifying. Nothing in this section shall  
4 prohibit the commission from prosecuting any person compelled  
5 to testify or provide evidence, if the commission has  
6 sufficient evidence, derived from other sources not  
7 discovered, derived, or revealed from such compelled testimony  
8 or evidence, to sustain a prosecution for a violation under  
9 this chapter.

10 §8-7A-24. Party aggrieved by order entitled to  
11 hearing before commission; appeals from action of commission.

12 (a) Any person aggrieved by an order issued under  
13 this chapter shall be entitled to a hearing, as authorized for  
14 contested cases, pursuant to the Administrative Procedure Act,  
15 Chapter 22 of Title 41, if the aggrieved person, within 28  
16 days after delivery of the order, submits a written request  
17 for a hearing before the commission. The order shall disclose  
18 the right to a hearing upon written request within 28 days  
19 after delivery of the order. If no timely request for a  
20 hearing is made, the order shall constitute a final order of  
21 the commission.

22 (b) Any appeal from any final order of the  
23 commission shall be made to the Circuit Court of Montgomery  
24 County and shall be governed by the provisions of the  
25 Administrative Procedure Act pertaining to judicial review.

26 §8-7A-25. Burden of proving an exemption or an  
27 exception from a definition.

1           In any proceeding under this chapter, the burden of  
2 proving an exemption or an exception from a definition is upon  
3 the person claiming it.

4           §8-7A-26. Making, amending, and rescinding rules and  
5 prescribing forms.

6           The commission from time to time, may make, amend,  
7 and rescind rules and prescribe forms as are necessary and  
8 desirable to carry out this chapter. No rules or forms may be  
9 made or prescribed unless the commission finds that the action  
10 is necessary or appropriate in the public interest and  
11 consistent with the purposes fairly intended by the policy and  
12 provisions of this chapter. In prescribing rules and forms,  
13 the commission may cooperate with the administrators of other  
14 states, industry representatives, and other federal regulatory  
15 bodies with a view to effectuate the policy of this chapter to  
16 achieve maximum uniformity in the form and content of  
17 applications and reports wherever practicable. All rules shall  
18 be adopted pursuant to the Alabama Administrative Procedure  
19 Act and, along with all forms adopted, be published by the  
20 commission.

21           §8-7A-27. Interpretive opinions by the commission.

22           (a) The commission may issue interpretative opinions  
23 and no-action letters upon request from interested persons.  
24 Such opinions or no-action letters shall be limited in scope  
25 and may not be requested to provide legal advice to any  
26 person. No opinion or no-action letter shall be issued on a  
27 hypothetical basis.

1 (b) Any person who makes application to the  
2 commission for an interpretative opinion or no-action letter  
3 shall be assessed a nonrefundable filing fee of five hundred  
4 dollars (\$500) upon application for such opinion or no-action  
5 letter.

6 Section 3. Persons licensed and in good standing  
7 pursuant to Chapter 7 of Title 8, Code of Alabama 1975, on the  
8 effective date of this act, shall retain the license issued  
9 pursuant to that chapter without interruption until their next  
10 licensing renewal date.

11 Section 4. Although this bill would have as its  
12 purpose or effect the requirement of a new or increased  
13 expenditure of local funds, the bill is excluded from further  
14 requirements and application under Amendment 621 because the  
15 bill defines a new crime or amends the definition of an  
16 existing crime.

17 Section 5. This act shall become effective on the  
18 first day of the third month following its passage and  
19 approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on Financial Ser-  
vices..... . . . . 14-FEB-17

Read for the second time and placed  
on the calendar 1 amendment ..... . . . . 23-FEB-17

Read for the third time and passed  
as amended..... . . . . 09-MAR-17

Yeas 98, Nays 0, Abstains 0

Jeff Woodard  
Clerk