

AN ACT

ENTITLED, An Act to revise certain provisions regarding money transmitters and money transmissions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 51A-17-1 be amended by adding thereto a NEW SUBDIVISION to read as follows:

"Nationwide mortgage licensing system and registry," a licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of licensed mortgage loan originators and other regulated entities;

Section 2. That § 51A-17-20 be amended to read as follows:

51A-17-20. Any application for renewal of a license pursuant to the provisions of this chapter shall be filed with the director by December first and shall be accompanied by a fee and report as required pursuant to the provisions of § 51A-17-19. Any licensee that files for renewal after December first and before January first of the next calendar year shall pay a late fee in addition to the renewal fee. The late fee shall equal twenty-five percent of the renewal fee. If the application for renewal of a license is filed after December thirty-first, no license may be issued unless an application is filed pursuant to the provisions of § 51A-17-12.

Any money transmission license issued pursuant to the provisions of chapter 51A-17 that is set to expire on July 1, 2015, is extended until December 31, 2015.

Section 3. That § 51A-17-4 be amended to read as follows:

51A-17-4. No person, except a person who is exempt pursuant to the provisions of § 51A-17-3, may engage in the business of money transmission in this state without obtaining a license as provided in this chapter and undergoing a criminal background investigation through the division.

A person is engaged in providing money transmission if the person provides those services to residents of South Dakota, even if such person has no physical presence in South Dakota. Any person may be licensed and maintain a unique identifier through the nationwide mortgage licensing system and registry.

Section 4. That chapter 51A-17 be amended by adding thereto a NEW SECTION to read as follows:

The director may use the nationwide mortgage licensing system and registry as a channeling agent for requesting and distributing information to and from other state and federal regulatory officials or agencies with money transmission industry oversight authority as deemed necessary by the director to carry out the responsibilities of this chapter.

Section 5. That chapter 51A-17 be amended by adding thereto a NEW SECTION to read as follows:

The director may establish a relationship or enter into a contract with the nationwide mortgage licensing system and registry or an entity designated by the nationwide mortgage licensing system and registry to collect and maintain records and process transaction fees or other fees related to any licensee or person subject to the provisions of this chapter.

Section 6. That chapter 51A-17 be amended by adding thereto a NEW SECTION to read as follows:

The following provisions apply to the sharing of information collected and retained by the director during the administration of this chapter:

- (1) The provisions of § 51A-17-30 regarding privacy or confidentiality apply to any information or material provided to the nationwide mortgage licensing system and registry, and any privilege arising under federal or state law, including any rule of a federal or state court, with respect to the information or material, continue to apply to the

information or material after the information or material has been disclosed to the nationwide mortgage licensing system and registry. The information and material may be shared with a state or federal regulatory official who has money transmission industry oversight authority without the loss of privilege or the loss of confidentiality protections by federal law or § 51A-17-30; and

- (2) No information or material that is subject to privilege or confidentiality pursuant to this section is subject to:
 - (a) Disclosure under any federal or state law governing the disclosure to the public of information held by an officer or an agency of the federal government or the respective state; or
 - (b) Subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the nationwide mortgage licensing system and registry regarding the information or material is waived, in whole or in part, by the person to whom the information or material pertains.

This section does not apply to the information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, money transmitters that is included in the nationwide mortgage licensing system and registry for access by the public.

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I certify that the attached Act
originated in the

HOUSE as Bill No. 1028

Chief Clerk

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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1028

File No. _____

Chapter No. _____

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Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

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The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor

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STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

Filed _____ , 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State