



2020 South Dakota Legislature

House Bill 1016

Introduced by: The Committee on Commerce and Energy at the request of the Department of Labor and Regulation

1 **An Act to revise certain provisions regarding money transmission.**

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

3 **Section 1.** That § 51A-17-3 be AMENDED:

4 **51A-17-3. Entities exempt from chapter.**

5 This chapter does not apply to:

- 6 (1) The United States or any department, agency, or instrumentality thereof;
- 7 (2) The United States Post Office;
- 8 (3) The state or any political subdivisions thereof;
- 9 (4) Banks, bank holding companies, credit unions, building and loan associations,
- 10 savings and loan associations, savings banks, or mutual banks organized under the
- 11 laws of any state or the United States, and any subcontractor, agent, or
- 12 independent contractor that sells payment instruments issued by any such entity
- 13 or sells such entity's money transmission services on behalf of such entity; ~~and~~
- 14 (5) A South Dakota chartered trust company;
- 15 (6) The provision of electronic transfer of government benefits for any federal, state,
- 16 or county governmental agency as defined in Federal Reserve Board Regulation E,
- 17 by a contractor for and on behalf of the United States or any department, agency,
- 18 or instrumentality thereof, or any state or any political subdivisions thereof;
- 19 (7) An operator of a payment system to the extent that the system provides
- 20 processing, clearing, or settlement services, between or among persons excluded
- 21 by this section, in connection with wire transfers, credit card transactions, debit
- 22 card transactions, stored-value transactions, automated clearing house transfers,
- 23 or similar funds transfers; and
- 24 (8) An agent appointed by a payee to collect and process payment as the agent of the
- 25 payee, if the agent can demonstrate that:

- 1 (a) A written agreement exists between the payee and the agent directing the
2 agent to collect and process payments on the payee's behalf;
3 (b) The payee holds the agent out to the public as accepting payments on the
4 payee's behalf; and
5 (c) Payment is treated as received by the payee upon receipt by the agent so
6 there is no risk of loss to the individual initiating the transaction if the agent
7 fails to remit the funds to the payee.

8 **Section 2.** That § 51A-17-17 be AMENDED:

9 **51A-17-17. Applicant--Investigation by director.**

10 Upon receiving a complete application, the director shall investigate the financial
11 condition and responsibility, financial and business experience, character, and general
12 fitness of the applicant. The director may conduct an on-site investigation of the applicant,
13 the reasonable cost of which shall be ~~borne~~paid by the applicant. If the director finds that
14 the applicant's business will be conducted honestly, fairly, and in a manner commanding
15 the confidence and trust of the community and that the applicant has fulfilled the
16 requirements imposed by this chapter and has paid the required license fee, the director
17 shall issue a license to the applicant authorizing the applicant to engage in the licensed
18 activities in this state until the license expires on the following ~~July~~January first. If these
19 requirements have not been met, the director shall deny the application in ~~a~~-writing setting
20 forth the reasons for the denial.