

1 CORRECTED AND REPRINTED

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3 ~~Indicates Matter Stricken~~

4 Indicates New Matter

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6 COMMITTEE AMENDMENT ADOPTED

7 May 26, 2016

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H. 4554

10

11 Introduced by Reps. Clemmons, Pitts, Duckworth, Rivers, Fry,

12 H.A. Crawford, Goldfinch, Jordan, Lowe, Johnson and Loftis

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14 S. Printed 5/27/16--S.

[SEC 5/31/16 3:25 PM]

15 Read the first time March 17, 2016.

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[4554-1]

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A BILL

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 11 TO TITLE 35 SO AS TO ENACT THE “SOUTH CAROLINA ANTI-MONEY LAUNDERING ACT” TO PROVIDE REGULATION AND OVERSIGHT OF THE MONEY TRANSMISSION SERVICES BUSINESS MOST COMMONLY USED BY ORGANIZED CRIMINAL ENTERPRISE TO LAUNDER THE MONETARY PROCEEDS OF ILLEGAL ACTIVITIES, AND TO PROVIDE DEFINITIONS, EXCLUSIONS, PROCEDURES, AND PENALTIES.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 35 of the 1976 Code is amended by adding:

“CHAPTER 11

South Carolina Anti-Money Laundering Act

Article 1

General Provisions

Section 35-11-100. This chapter may be cited as the ‘South Carolina Anti-Money Laundering Act’.

Section 35-11-105. As used in this chapter:

(1) ‘Applicant’ means a person that files an application for a license pursuant to this act.

- 1 (2) 'Authorized delegate' means a person a licensee designates
2 to provide money services on behalf of the licensee.
- 3 (3) 'Bank' means an institution organized under federal or state
4 law which:
- 5 (a) accepts demand deposits or deposits that the depositor
6 may use for payment to third parties and which engages in the
7 business of making commercial loans; or
- 8 (b) engages in credit card operations and maintains only one
9 office that accepts deposits, does not accept demand deposits or
10 deposits that the depositor may use for payments to third parties,
11 does not accept a savings or time deposit less than one hundred
12 thousand dollars, and does not engage in the business of making
13 commercial loans.
- 14 (4) 'Commissioner' means the South Carolina Attorney
15 General.
- 16 (5) 'Control' means:
- 17 (a) ownership of, or the power to vote, directly or indirectly,
18 at least twenty-five percent of a class of voting securities or voting
19 interests of a licensee or person in control of a licensee;
- 20 (b) power to elect a majority of executive officers, managers,
21 directors, trustees, or other persons exercising managerial authority
22 of a licensee or person in control of a licensee; or
- 23 (c) power to exercise directly or indirectly, a controlling
24 influence over the management or policies of a licensee or person in
25 control of a licensee.
- 26 (6) 'Currency exchange' means receipt of revenues from the
27 exchange of money of one government for money of another
28 government.
- 29 (7) 'Executive officer' means a president, chairperson of the
30 executive committee, chief financial officer, responsible individual,
31 or other individual who performs similar functions.
- 32 (8) 'Licensee' means a person licensed pursuant to this act.
- 33 (9) 'Monetary value' means a medium of exchange, whether or
34 not redeemable in money.
- 35 (10) 'Money' means a medium of exchange that is authorized or
36 adopted by the United States or a foreign government. The term
37 includes a monetary unit of account established by an
38 intergovernmental organization or by agreement between two or
39 more governments.
- 40 (11) 'Money services' means money transmission or currency
41 exchange.
- 42 (12) 'Money transmission' means selling or issuing payment
43 instruments, stored value, or receiving money or monetary value for

1 transmission. The term does not include the provision solely of
2 delivery, online or telecommunications services, or network access.

3 (13) 'Outstanding', with respect to a payment instrument, means
4 issued or sold by or for the licensee and reported as sold but not yet
5 paid by or for the licensee.

6 (14) 'Payment instrument' means a check, draft, money order,
7 traveler's check, or other instrument for the transmission or payment
8 of money or monetary value, whether or not negotiable. The term
9 does not include a credit card voucher, letter of credit, or instrument
10 that is redeemable by the issuer in goods or services.

11 (15) 'Person' means an individual, corporation, business trust,
12 estate, trust, partnership, limited-liability company, association,
13 joint venture, government, governmental subdivision, agency or
14 instrumentality, public corporation, or another legal or commercial
15 entity.

16 (16) 'Record' means information that is inscribed on a tangible
17 medium or that is stored in an electronic or other medium and is
18 retrievable in perceivable form.

19 (17) 'Responsible individual' means an individual who is
20 employed by a licensee and has principal managerial authority over
21 the provision of money services by the licensee in this State.

22 (18) 'State' means a state of the United States, the District of
23 Columbia, Puerto Rico, the United States Virgin Islands, or a
24 territory or insular possession subject to the jurisdiction of the
25 United States.

26 (19) 'Stored value' means monetary value that is evidenced by an
27 electronic record.

28 (20) 'Unsafe or unsound practice' means a practice or conduct by
29 a person licensed to engage in money transmission or an authorized
30 delegate of such a person, which creates the likelihood of material
31 loss, insolvency, or dissipation of the licensee's assets, or otherwise
32 materially prejudices the interests of its customers.

33

34 Section 35-11-110. This chapter does not apply to:

35 (1) the United States or a department, agency, or instrumentality
36 of the United States;

37 (2) money transmission by the United States Postal Service or
38 by a contractor on behalf of the United States Postal Service;

39 (3) a state, county, city, or another governmental agency or
40 governmental subdivision of a state;

41 (4) a bank, bank holding company, office of an international
42 banking corporation, branch of a foreign bank, corporation
43 organized pursuant to the Bank Service Corporation Act, 12 U.S.C.

1 Section 1861-1867 (Supp. V 1999), or corporation organized under
2 the Edge Act, 12 U.S.C. Section 611-633 (1994 & Supp. V 1999),
3 under the laws of a state or the United States if it does not issue, sell,
4 or provide payment instruments or stored value through an
5 authorized delegate who is not such a person;

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

11 (6) a board of trade designated as a contract market under the
12 federal Commodity Exchange Act, 7 U.S.C. Section 1-25 (1994), or
13 a person that, in the ordinary course of business, provides clearance
14 and settlement services for a board of trade to the extent of its
15 operation as or for a board of trade;

16 (7) a registered futures commission merchant under the federal
17 commodities laws to the extent of its operation as a futures
18 commission merchant;

19 (8) a person who provides clearance or settlement services
20 pursuant to a registration as a clearing agency or an exemption from
21 that registration granted under the federal securities laws to the
22 extent of its operation as a provider of clearance or settlement
23 services;

24 (9) an operator of a payment system to the extent that it provides
25 processing, clearing, or settlement services, between or among
26 persons excluded by this section, in connection with wire transfers,
27 credit card transactions, debit card transactions, stored-value
28 transactions, automated clearing house transfers, similar funds
29 transfers;

30 (10) a person registered as a securities broker-dealer under
31 federal or state securities laws to the extent of his operation as a
32 securities broker-dealer; or

33 (11) a credit union regulated and insured by the National Credit
34 Union Association.

35

36

Article 2

37

38

Money Transmission Licenses

39

40 Section 35-11-200. (A) A person may not engage in the business
41 of money transmission or advertise, solicit, or hold himself out as
42 providing money transmission unless the person is:

1 (1) licensed under this chapter or approved to engage in
2 money transmission pursuant to Section 35-11-210;

3 (2) an authorized delegate of a person licensed pursuant to
4 this article; or

5 (3) an authorized delegate of a person approved to engage in
6 money transmission pursuant to Section 35-11-210.

7 (B) A license issued pursuant to this chapter is not transferable
8 or assignable.

9

10 Section 35-11-205. (A) In this section, 'material litigation'
11 means litigation that according to generally accepted accounting
12 principles is significant to an applicant's or a licensee's financial
13 health and would be required to be disclosed in the applicant's or
14 licensee's annual audited financial statements, report to
15 shareholders, or similar records.

16 (B) A person applying for a license pursuant to this article shall
17 do so in a form and in a medium prescribed by the commissioner.
18 The application must state or contain:

19 (1) the legal name, residential and business addresses of the
20 applicant, and any fictitious or trade name used by the applicant in
21 conducting its business;

22 (2) a list of any criminal convictions of the applicant and any
23 material litigation in which the applicant has been involved in the
24 ten-year period next preceding the submission of the application;

25 (3) a description of any money services previously provided
26 by the applicant and the money services that the applicant seeks to
27 provide in this State;

28 (4) a list of the applicant's proposed authorized delegates and
29 the locations in this State where the applicant and the applicant's
30 authorized delegates propose to engage in money transmission or
31 provide other money services;

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

36 (6) information concerning a bankruptcy or receivership
37 proceeding affecting the licensee;

38 (7) a sample form of contract for authorized delegates, if
39 applicable, and a sample form of payment instrument or instrument
40 upon which stored value is recorded, if applicable;

41 (8) the name and address of any bank through which the
42 applicant's payment instruments and stored value will be paid;

1 (9) a description of the source of money and credit to be used
2 by the applicant to provide money services; and
3 (10) other information the commissioner reasonably requires
4 with respect to the applicant.

5 (C) If an applicant is a corporation, limited liability company,
6 partnership, or other entity, the applicant also shall provide:

7 (1) the date of the applicant's incorporation or formation and
8 state or country of incorporation or formation;

9 (2) if applicable, a certificate of good standing from the state
10 or country in which the applicant is incorporated or formed;

11 (3) a brief description of the structure or organization of the
12 applicant, including a parent entity or subsidiary of the applicant,
13 and whether a parent entity or subsidiary is publicly traded;

14 (4) the legal name, a fictitious or trade name, all business and
15 residential addresses, and the employment, in the ten-year period
16 next preceding the submission of the application of each executive
17 officer, manager, director, or person who has control of the
18 applicant;

19 (5) a list of criminal convictions and material litigation in
20 which an executive officer, a manager, director, or person in control
21 of, the applicant has been involved in the ten-year period next
22 preceding the submission of the application;

23 (6) a copy of the applicant's audited financial statements for
24 the most recent fiscal year and, if available, for the two-year period
25 next preceding the submission of the application;

26 (7) a copy of the applicant's unconsolidated financial
27 statements for the current fiscal year, whether audited or not, and, if
28 available, for the two-year period next preceding the submission of
29 the application;

30 (8) if the applicant is publicly traded, a copy of the most
31 recent report filed with the United States Securities and Exchange
32 Commission pursuant to Section 13 of the federal Securities
33 Exchange Act of 1934, 15 U.S.C. Section 78m (1994 & Supp. V
34 1999);

35 (9) if the applicant is a wholly owned subsidiary of a:

36 (a) corporation publicly traded in the United States, a copy
37 of audited financial statements for the parent corporation for the
38 most recent fiscal year or a copy of the parent corporation's most
39 recent report filed pursuant to Section 13 of the federal Securities
40 Exchange Act of 1934, 15 U.S.C. Section 78m (1994 & Supp. V
41 1999); or

1 (b) corporation publicly traded outside the United States, a
2 copy of similar documentation filed with the regulator of the parent
3 corporation's domicile outside the United States;

4 (10) if the applicant has a registered agent in this State, the
5 name and address of the applicant's registered agent in this State;
6 and

7 (11) other information the commissioner reasonably requires
8 with respect to the applicant.

9 (D) A nonrefundable application fee of one thousand five
10 hundred dollars and a license fee of seven hundred fifty dollars must
11 accompany an application for a license pursuant to this article. The
12 license fee must be refunded if the application is denied.

13 (E) The commissioner may waive one or more requirements of
14 subsections (B) and (C) or permit an applicant to submit other
15 information in lieu of the required information.

16
17 Section 35-11-210. (A) A person who is licensed to engage in
18 money transmission in at least one other state, with the approval of
19 the commissioner and in accordance with this section, may engage
20 in money transmission and currency exchange in this State without
21 being licensed pursuant to Section 35-11-205 if the:

22 (1) state in which the person is licensed has enacted the
23 Uniform Money Services Act or the commissioner determines that
24 the money transmission laws of that state are substantially similar to
25 those imposed by the law of this State;

26 (2) person submits to, and in the form required by, the
27 commissioner:

28 (a) in a record, an application for approval to engage in
29 money transmission and currency exchange in this State without
30 being licensed pursuant to Section 35-11-205;

31 (b) a nonrefundable fee of one thousand dollars; and

32 (c) a certification of license history in the other state.

33 (B) When an application for approval pursuant this section is
34 complete, the commissioner shall promptly notify the applicant in a
35 record, of the date on which the request was determined to be
36 complete and:

37 (1) the commissioner shall approve or deny the request within
38 one hundred twenty days after that date; or

39 (2) if the request is not approved or denied within one hundred
40 twenty days after that date the:

41 (a) request is approved; and

42 (b) approval takes effect as of the first business day after
43 expiration of the one hundred twenty-day period.

1 (C) A person who engages in money transmission and currency
2 exchange in this State pursuant to this section shall comply with the
3 requirements of, and is subject to the sanctions provided in this
4 chapter, as if the person were licensed pursuant to Section
5 35-11-220.

6

7 Section 35-11-215. (A) Except as otherwise provided in
8 subsection (B), a surety bond, letter of credit, or other similar
9 security acceptable to the commissioner in the amount of fifty
10 thousand dollars plus ten thousand dollars for each location, not
11 exceeding a total addition of two hundred fifty thousand dollars,
12 must accompany an application for a license.

13 (B) Security must be in a form satisfactory to the commissioner
14 and payable to the State for the benefit of a claimant against the
15 licensee to secure the faithful performance of the obligations of the
16 licensee with respect to money transmission.

17 (C) The aggregate liability on a surety bond may not exceed the
18 principal sum of the bond. A claimant against a licensee may
19 maintain an action on the bond, or the commissioner may maintain
20 an action on behalf of the claimant.

21 (D) A surety bond must cover claims for so long as the
22 commissioner specifies, but for at least five years after the licensee
23 ceases to provide money services in this State. However, the
24 commissioner may permit the amount of security to be reduced or
25 eliminated before the expiration of that time to the extent the amount
26 of the licensee's payment instruments or stored-value obligations
27 outstanding in this State is reduced. The commissioner may permit
28 a licensee to substitute another form of security acceptable to the
29 commissioner for the security effective at the time the licensee
30 ceases to provide money services in this State.

31 (E) In lieu of the security prescribed in this section, an applicant
32 for a license or a licensee may provide security in a form prescribed
33 by the commissioner.

34 (F) The commissioner may increase the amount of security
35 required to a maximum of one million dollars if the financial
36 condition of a licensee so requires, as evidenced by reduction of net
37 worth, financial losses, or other relevant criteria.

38

39 Section 35-11-220. (A) When an application is filed pursuant to
40 this article, the commissioner shall investigate the applicant's
41 financial condition and responsibility, financial and business
42 experience, character, and general fitness. The commissioner may
43 conduct an on-site investigation of the applicant, the reasonable cost

1 of which the applicant must pay. The commissioner shall issue a
2 license to an applicant pursuant to this article if the commissioner
3 finds that all of the following conditions have been fulfilled:

4 (1) the applicant has complied with Sections 35-11-205,
5 35-11-215, and 35-11-230; and

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

12 (B) When an application for an original license pursuant to this
13 article is complete, the commissioner promptly shall notify the
14 applicant in a record of the date on which the application was
15 determined to be complete and:

16 (1) the commissioner shall approve or deny the application
17 within one hundred twenty days after that date; or

18 (2) if the application is not approved or denied within one
19 hundred twenty days after that date the:

20 (a) application is considered approved; and

21 (b) commissioner shall issue the license pursuant to this
22 article, to take effect as of the first business day after expiration of
23 the one hundred twenty-day period.

24 (C) The commissioner may for good cause extend the
25 application period.

26 (D) An applicant whose application is denied by the
27 commissioner pursuant to this article may appeal, within thirty days
28 after receipt of the notice of the denial, from the denial and request
29 a hearing.

30

31 Section 35-11-225. (A) A person licensed pursuant to this article
32 shall pay an annual renewal fee of seven hundred fifty dollars no
33 later than thirty days before the anniversary of the issuance of the
34 license or, if the last day is not a business day, on the next business
35 day.

36 (B) A licensee under this article shall submit a renewal report
37 with the renewal fee, in a form and in a medium prescribed by the
38 commissioner. The renewal report must state or contain:

39 (1) a copy of the licensee's most recent audited annual
40 financial statement or, if the licensee is a wholly owned subsidiary
41 of another corporation, the most recent audited consolidated annual
42 financial statement of the parent corporation or the licensee's most
43 recent audited consolidated annual financial statement;

1 (2) the number and monetary amount of payment instruments
2 and stored value sold by the licensee in this State which have not
3 been included in a renewal report, and the monetary amount of
4 payment instruments and stored value currently outstanding;

5 (3) a description of each material change in information
6 submitted by the licensee in its original license application which
7 has not been reported to the commissioner on a required report;

8 (4) a list of the licensee's permissible investments and a
9 certification that the licensee continues to maintain permissible
10 investments pursuant to the requirements set forth in Sections
11 35-11-600 and 35-11-605;

12 (5) proof that the licensee continues to maintain adequate
13 security as required by Section 35-11-130; and

14 (6) a list of the locations in this State where the licensee or an
15 authorized delegate of the licensee engages in money transmission
16 or provides other money services.

17 (C) If a licensee does not file a renewal report or pay its renewal
18 fee by the renewal date or an extension of time granted by the
19 commissioner, the commissioner shall send the licensee a notice of
20 suspension. Unless the licensee files the report and pays the renewal
21 fee before expiration of ten days after the notice is sent, the
22 licensee's license is suspended ten days after the commissioner
23 sends the notice of suspension. The suspension must be lifted if,
24 within twenty days after its license is suspended, the licensee:

25 (1) files the report and pays the renewal fee; and

26 (2) pays one hundred dollars for each day after suspension
27 that the commissioner did not receive the renewal report and the
28 renewal fee.

29 (D) The commissioner for good cause may grant an extension of
30 the renewal date.

31
32 Section 35-11-230. A person licensed pursuant to this article shall
33 maintain a net worth of at least two hundred fifty thousand dollars
34 determined in accordance with generally accepted accounting
35 principles.

36 Article 3

37 Currency Exchange Licenses

38
39
40 Section 35-11-300.(A) A person may not engage in currency
41 exchange or advertise, solicit, or hold himself out as providing
42

1 currency exchange for which the person receives revenues equal or
2 greater than five percent of total revenues unless the person is:

- 3 (1) licensed pursuant to this chapter;
- 4 (2) licensed for money transmission pursuant to Article 2, or
5 approved to engage in money transmission pursuant to Section
6 35-11-210;
- 7 (3) an authorized delegate of a person licensed pursuant to
8 Article 2; or
- 9 (4) an authorized delegate of a person approved to engage in
10 money transmission pursuant to Section 35-11-210.

11 (B) A license issued pursuant to this chapter is not transferable
12 or assignable.

13
14 Section 35-11-305. (A) A person applying for a license pursuant
15 to this article shall do so in a form and in a medium prescribed by
16 the commissioner. The application shall state or contain:

- 17 (1) the legal name and residential and business addresses of
18 the applicant, if the applicant is an individual or, if the applicant is
19 not an individual, the name of each partner, executive officer,
20 manager, and director;
- 21 (2) the location of the principal office of the applicant;
- 22 (3) complete addresses of other locations in this State where
23 the applicant proposes to engage in currency exchange, including all
24 limited stations and mobile locations;
- 25 (4) a description of the source of money and credit to be used
26 by the applicant to engage in currency exchange; and;
- 27 (5) other information the commissioner reasonably requires
28 with respect to the applicant, but not more than the commissioner
29 may require pursuant to Article 2.

30 (B) A nonrefundable application fee of one thousand five
31 hundred dollars and a license fee of seven hundred fifty dollars must
32 accompany an application for a license pursuant to this subchapter.
33 The license fee must be refunded if the application is denied.

34
35 Section 35-11-310. (A) When a person applies for a license
36 pursuant to this article, the commissioner shall investigate the
37 applicant's financial condition and responsibility, financial and
38 business experience, character, and general fitness. The
39 commissioner may conduct an on-site investigation of the applicant,
40 the reasonable cost of which the applicant must pay. The
41 commissioner shall issue a license to an applicant pursuant to this
42 article if the commissioner finds that all of the following conditions
43 have been fulfilled:

1 (1) the applicant has complied with Section 35-11-305; and
2 (2) the financial condition and responsibility, financial and
3 business experience, competence, character, and general fitness of
4 the applicant; and the competence, experience, character, and
5 general fitness of the executive officers, managers, directors, and
6 persons in control of the applicant indicate that it is in the interest of
7 the public to permit the applicant to engage in currency exchange.

8 (B) When an application for an original license pursuant to this
9 article is complete, the commissioner promptly shall notify the
10 applicant in a record of the date on which the application was
11 determined to be complete and:

12 (1) the commissioner shall approve or deny the application
13 within one hundred twenty days after that date; or

14 (2) if the application is not approved or denied within one
15 hundred twenty days after that date the:

16 (a) application is considered approved; and

17 (b) commissioner shall issue the license pursuant to this
18 article, to take effect as of the first business day after expiration of
19 the period.

20 (C) The commissioner may for good cause extend the
21 application period.

22 (D) An applicant whose application is denied a license by the
23 commissioner pursuant to this article may appeal, within thirty days
24 after receipt of the notice of the denial, from the denial and request
25 a hearing.

26

27 Section 35-11-315. (A) A person licensed pursuant to this article
28 shall pay a biennial renewal fee of seven hundred fifty dollars no
29 later than thirty days before each biennial anniversary of the
30 issuance of the license or, if the last day is not a business day, on the
31 next business day.

32 (B) A person licensed pursuant to this article shall submit a
33 renewal report with the renewal fee, in a form and in a medium
34 prescribed by the commissioner. The renewal report must state or
35 contain a:

36 (1) description of each material change in information
37 submitted by the licensee in its original license application which
38 has not been reported to the commissioner on a required report; and

39 (2) list of the locations in this State where the licensee or an
40 authorized delegate of the licensee engages in currency exchange,
41 including limited stations and mobile locations.

42 (C) If a licensee does not file a renewal report and pay its renewal
43 fee by the renewal date or an extension of time granted by the

1 commissioner, the commissioner shall send the licensee a notice of
2 suspension. Unless the licensee files the report and pays the renewal
3 fee before expiration of ten days after the notice is sent, the
4 licensee's license is suspended ten days after the commissioner
5 sends the notice of suspension.

6 (D) The commissioner for good cause may grant an extension of
7 the renewal date.

8

9

Article 4

10

Authorized Delegates

11

12

13 Section 35-11-400. (A) In this section, 'remit' means to make
14 direct payments of money to a licensee or its representative
15 authorized to receive money or to deposit money in a bank in an
16 account specified by the licensee.

17 (B) A contract between a licensee and an authorized delegate
18 must require the authorized delegate to operate in full compliance
19 with this chapter. For such contracts initiated on or after the
20 effective date of this act, the licensee shall provide to each
21 authorized delegate information sufficient for compliance with this
22 chapter.

23 (C) An authorized delegate shall remit all money owing to the
24 licensee in accordance with the terms of the contract between the
25 licensee and the authorized delegate.

26 (D) If a license is suspended or revoked or a licensee does not
27 renew its license, the commissioner shall notify all authorized
28 delegates of the licensee whose names are in a record filed with the
29 commissioner of the suspension, revocation, or nonrenewal. After
30 notice is sent or publication is made, an authorized delegate shall
31 immediately cease to provide money services as a delegate of the
32 licensee.

33 (E) An authorized delegate may not provide money services
34 outside the scope of activity permissible under the contract between
35 the authorized delegate and the licensee, except activity in which the
36 authorized delegate is authorized to engage in pursuant to Article 2
37 of this chapter. An authorized delegate of a licensee holds in trust
38 for the benefit of the licensee all money net of fees received from
39 money transmission.

40 (F) An authorized delegate may not use a subdelegate to conduct
41 money services on behalf of a licensee.

42

1 Section 35-11-405. A person may not provide money services on
2 behalf of a person not licensed pursuant to this chapter. A person
3 that engages in that activity provides money services to the same
4 extent as if the person were a licensee.

5
6 Article 5

7
8 Examinations, Reports, and Records
9

10 Section 35-11-500. (A) The commissioner may conduct an
11 annual examination of a licensee or of any of the licensee's
12 authorized delegates on a forty-five-day notice in a record to the
13 licensee.

14 (B) The commissioner may examine a licensee or its authorized
15 delegate, at any time, without notice, if the commissioner has reason
16 to believe that the licensee or authorized delegate is engaging in an
17 unsafe or unsound practice or has violated or is violating this chapter
18 or a rule adopted or an order issued pursuant to this chapter.

19 (C) If the commissioner concludes that an on-site examination is
20 necessary pursuant to subsection (A), the licensee shall pay the
21 reasonable cost of the examination.

22 (D) Information obtained during an examination pursuant to this
23 chapter may be disclosed only as provided in Section 35-11-530.
24

25 Section 35-11-505. The commissioner may consult and cooperate
26 with other state money services regulators in enforcing and
27 administering this act. They jointly may pursue examinations and
28 take other official action that they are otherwise empowered to take.
29

30 Section 35-11-510. (A) A licensee shall file with the
31 commissioner within fifteen business days any material changes in
32 information provided in a licensee's application as prescribed by the
33 commissioner.

34 (B) A licensee shall file with the commissioner within forty-five
35 days after the end of each fiscal quarter a current list of all
36 authorized delegates, and locations in this State where the licensee
37 or an authorized delegate of the licensee provides money services,
38 including limited stations and mobile locations. The licensee shall
39 state the name and street address of each location and authorized
40 delegate.

41 (C) A licensee shall file a report with the commissioner within
42 three business days after the licensee has reason to know of the
43 occurrence of any of the following events:

1 (1) the filing of a petition by or against the licensee under the
2 United States Bankruptcy Code, 11 U.S.C. Section 101-110 (1994
3 & Supp. V. 1999), for bankruptcy or reorganization;

4 (2) the filing of a petition by or against the licensee for
5 receivership, the commencement of another judicial or
6 administrative proceeding for its dissolution or reorganization, or
7 the making of a general assignment for the benefit of its creditors;

8 (3) the commencement of a proceeding to revoke or suspend
9 its license in a state or country in which the licensee engages in
10 business or is licensed;

11 (4) the cancellation or other impairment of the licensee's
12 bond or other security;

13 (5) a charge or conviction of the licensee or of an executive
14 officer, manager, director, or person in control of the licensee for a
15 felony; or

16 (6) a charge or conviction of an authorized delegate for a
17 felony.

18

19 Section 35-11-515. (A) A licensee shall:

20 (1) give the commissioner notice in a record of a proposed
21 change of control within fifteen days after learning of the proposed
22 change of control;

23 (2) request approval of the acquisition; and

24 (3) submit a nonrefundable fee of one thousand dollars with
25 the notice.

26 (B) After review of a request for approval pursuant to subsection
27 (A), the commissioner may require the licensee to provide
28 additional information concerning the proposed persons in control
29 of the licensee. The additional information must be limited to the
30 same types required of the licensee or persons in control of the
31 licensee as part of its original license or renewal application.

32 (C) The commissioner shall approve a request for change of
33 control pursuant to subsection (A) if, after investigation, the
34 commissioner determines that the person or group of persons
35 requesting approval has the competence, experience, character, and
36 general fitness to operate the licensee or person in control of the
37 licensee in a lawful and proper manner and that the public interest
38 will not be jeopardized by the change of control.

39 (D) When an application for a change of control pursuant to this
40 article is complete, the commissioner shall notify the licensee in a
41 record of the date on which the request was determined to be
42 complete and:

1 (1) the commissioner shall approve or deny the request within
2 one hundred twenty days after that date; or

3 (2) if the request is not approved or denied within one hundred
4 twenty days after that date:

5 (a) the request is considered approved; and

6 (b) the commissioner shall permit the change of control
7 under this section to take effect as of the first business day after
8 expiration of the period.

9 (E) The commissioner, by rule of order, may exempt a person
10 from any of the requirements of subsection (A)(2) and (3) if it is in
11 the public interest to do so.

12 (F) Subsection (A) does not apply to a public offering of
13 securities.

14 (G) Before filing a request for approval to acquire control of a
15 licensee or person in control of a licensee, a person may request in
16 a record a determination from the commissioner as to whether the
17 person would be considered a person in control of a licensee upon
18 consummation of a proposed transaction. If the commissioner
19 determines that the person would not be a person in control of a
20 licensee, the commissioner shall enter an order to that effect and the
21 proposed person and transaction is not subject to the requirements
22 of subsections (A) through (C).

23
24 Section 35-11-520. (A) A licensee shall maintain the following
25 records for determining its compliance with this act for at least three
26 years:

27 (1) a record of each payment instrument or stored-value
28 obligation sold;

29 (2) a general ledger posted at least monthly containing all
30 asset, liability, capital, income, and expense accounts;

31 (3) bank statements and bank reconciliation records;

32 (4) records of outstanding payment instruments and
33 stored-value obligations;

34 (5) records of each payment instrument and stored-value
35 obligation paid within the three-year period;

36 (6) a list of the last known names and addresses of all of the
37 licensee's authorized delegates; and

38 (7) other records the commissioner reasonably requires by
39 rule.

40 (B) The items specified in subsection (A) may be maintained in
41 any form of record.

1 (C) Records may be maintained outside this State if they are
2 made accessible to the commissioner on a seven business-day notice
3 that is sent in a record.

4 (D) All records maintained by the licensee as required in
5 subsections (A) through (C) are open to inspection by the
6 commissioner pursuant to Section 35-11-500.

7
8 Section 35-11-525. (A) A licensee and an authorized delegate
9 shall file with the commissioner all reports required by federal
10 currency reporting, record keeping, and suspicious transaction
11 reporting requirements as set forth in 31 U.S.C. Section 5311
12 (1994), 31 C.F.R. Section 103 (2000) and other federal and state
13 laws pertaining to money laundering.

14 (B) The timely filing of a complete and accurate report required
15 pursuant to subsection (A) with the appropriate federal agency is in
16 compliance with the requirements of subsection (A), unless the
17 commissioner notifies the licensee that reports of this type are not
18 being regularly and comprehensively transmitted by the federal
19 agency to the commissioner.

20
21 Section 35-11-530. (A) Unless otherwise specified in this
22 section, all information filed with the Securities Commissioner shall
23 be available for public inspection pursuant to rules promulgated by
24 the commissioner consistent with state and federal law governing
25 the disclosure of public information.

26 (B) Except for reasonably segregable portions of information
27 and records that by law would routinely be made available to a party
28 other than an agency in litigation with the commissioner, the
29 commissioner shall not publish or make available:

30 (1) information contained in reports, summaries, analyses,
31 letters, or memoranda arising out of, in anticipation of, or in
32 connection with an investigation, examination, or inspection of the
33 books and records of a person;

34 (2) interagency or intra-agency memoranda or letters,
35 including without limitation:

36 (a) records that reflect discussions between or
37 consideration by the commissioner or members of the
38 commissioner's staff, or both, of an action taken or proposed to be
39 taken by the commissioner or by a member of the commissioner's
40 staff; and

41 (b) reports, summaries, analyses, conclusions, or any other
42 work product of the commissioner or of attorneys, accountants,

1 analysts, or other members of the commissioner's staff, prepared in
2 the course of an:

- 3 (i) inspection of the books or records of a person whose
4 affairs are regulated by the commissioner; or
- 5 (ii) examination, investigation, or litigation conducted
6 by or on behalf of the commissioner;

7 (3) personnel files, medical files, and similar files if
8 disclosure would constitute a clearly unwarranted invasion of
9 personal privacy, including without limitation:

- 10 (a) information concerning all employees of the South
11 Carolina Securities Division and all persons subject to regulation
12 by the division; and
- 13 (b) personal information reported to the commissioner
14 under the division's rules concerning registration about employees
15 of applicants, licensees, or their agents;

16 (4)(a) investigatory records compiled for law enforcement
17 purposes to the extent that production of the records would:

- 18 (i) interfere with enforcement proceedings;
- 19 (ii) deprive a person of a right to a fair trial or an
20 impartial adjudication; or
- 21 (iii) disclose the identity of a confidential source;

22 (b) the commissioner also may withhold investigatory
23 records that would:

- 24 (i) constitute an unwarranted invasion of personal
25 privacy;
- 26 (ii) disclose investigative techniques and procedures; or
- 27 (iii) endanger the life or physical safety of law
28 enforcement personnel;

29 (c) as used in this section, 'investigatory records' includes:

- 30 (i) all documents, records, transcripts, correspondence,
31 and related memoranda and work products concerning examinations
32 and other investigations and related litigation as authorized by law
33 that pertain to or may disclose the possible violation by a person of
34 a provision of the statutes or rules administered by the
35 commissioner; and
- 36 (ii) all written communications from or to a person
37 confidentially complaining or otherwise furnishing information
38 about a possible violation, as well as all correspondence and
39 memoranda in connection with the confidential complaint or
40 information;

41 (5) information contained in or related to examinations,
42 operating reports, or condition reports prepared by, on behalf of, or
43 for the use of an agency responsible for the regulation or supervision

1 of financial institutions, check issuers, money transmitters, money
2 services providers, or money service businesses;

3 (6)(a) financial records of an applicant, licensee, or the agent
4 of an applicant or licensee obtained during or as a result of an
5 examination by the commissioner;

6 (b) when a record is required to be filed pursuant to this
7 article with the commissioner as part of an application for license,
8 annual renewal, or otherwise, the record, including financial
9 statements prepared by certified public accountants, must be public
10 information unless sections of the information are bound separately
11 and are marked 'confidential' by the applicant, licensee, or agent
12 upon filing;

13 (c) information pursuant to subitem (b) bound separately
14 and marked 'confidential' must be considered nonpublic until ten
15 days after the commissioner has given the applicant, licensee, or
16 agent notice that an order will be entered finding the material public
17 information.

18 (d) an applicant, licensee, or agent may seek an injunction
19 from the Richland County Circuit Court ordering the commissioner
20 to withhold the information as nonpublic pending a final order from
21 a court of competent jurisdiction if the order of the commissioner
22 pursuant to subitem (c) is appealed under applicable law;

23 (7) trade secrets obtained from a person; or

24 (8) another record that is required to be closed to the public
25 and is not considered open to public inspection under other law.

26 (C) The commissioner may disclose information not otherwise
27 subject to disclosure pursuant to subsection (A) to representatives of
28 state or federal agencies who promise in a record that they will
29 maintain the confidentiality of the information; or the commissioner
30 finds that the release is reasonably necessary for the protection of
31 the public and in the interests of justice, and the licensee has been
32 given previous notice by the commissioner of the commissioner's
33 intent to release the information.

34 (D) This section does not prohibit the commissioner from
35 disclosing to the public a list of persons licensed under this chapter
36 or the aggregated financial data concerning those licensees.

37

38

Article 6

39

40

Permissible Investments

41

42 Section 35-11-600.(A) A licensee shall maintain at all times
43 permissible investments that have a market value computed in

1 accordance with generally accepted accounting principles of not less
2 than the aggregate amount of all of its outstanding payment
3 instruments and stored value obligations issued or sold in all states
4 and money transmitted from all states by the licensee.

5 (B) The commissioner, with respect to a licensee, may limit the
6 extent to which a type of investment within a class of permissible
7 investments may be considered a permissible investment, except for
8 money and certificates of deposit issued by a bank. The
9 commissioner by rule may prescribe or by order allow other types
10 of investments that the commissioner determines to have a safety
11 substantially equivalent to other permissible investments.

12 (C) Permissible investments, even if commingled with other
13 assets of the licensee, are held in trust for the benefit of the
14 purchasers and holders of the licensee's outstanding payment
15 instruments and stored-value obligations in the event of bankruptcy
16 or receivership of the licensee.

17
18 Section 35-11-605. (A) Except to the extent otherwise limited by
19 the commissioner pursuant to Section 35-11-600, the following
20 investments are permissible pursuant to Section 35-11-600:

21 (1) cash, a certificate of deposit, or senior debt obligation of
22 an insured depository institution, as defined in Section 3 of the
23 Federal Deposit Insurance Act, 12 U.S.C. Section 1813 (1994 &
24 Supp. V 1999);

25 (2) banker's acceptance or bill of exchange that is eligible for
26 purchase upon endorsement by a member bank of the Federal
27 Reserve System and is eligible for purchase by a Federal Reserve
28 Bank;

29 (3) an investment bearing a rating of one of the three highest
30 grades as defined by a nationally recognized organization that rates
31 securities;

32 (4) an investment security that is an obligation of the United
33 States or a department, agency, or instrumentality of the United
34 States; an investment in an obligation that is guaranteed fully as to
35 principal and interest by the United States; or an investment in an
36 obligation of a State or a governmental subdivision, agency, or
37 instrumentality of a state;

38 (5) receivables that are payable to a licensee from its
39 authorized delegates, in the ordinary course of business, pursuant to
40 contracts that are not past due or doubtful of collection if the
41 aggregate amount of receivables under this item does not exceed
42 twenty percent of the total permissible investments of a licensee and
43 the licensee does not hold at one time receivables under this item in

1 any one person aggregating more than ten percent of the licensee's
2 total permissible investments; and

3 (6) a share or a certificate issued by an open-end management
4 investment company that is registered with the United States
5 Securities and Exchange Commission under the Investment
6 Companies Act of 1940, 15 U.S.C. Section 80a-1-64 (1994 & Supp.
7 V 1999), and whose portfolio is restricted by the management
8 company's investment policy to investments specified in items (1)
9 through (4).

10 (B) The following investments are permissible pursuant to
11 Section 35-11-600, but only to the extent specified:

12 (1) an interest-bearing bill, note, bond, or debenture of a
13 person whose equity shares are traded on a national securities
14 exchange or on a national over-the-counter market, if the aggregate
15 of investments under this item does not exceed twenty percent of the
16 total permissible investments of a licensee and the licensee does not
17 at one time hold investments under this item in any one person
18 aggregating more than ten percent of the licensee's total permissible
19 investments;

20 (2) a share of a person traded on a national securities
21 exchange or a national over-the-counter market or a share or a
22 certificate issued by an open-end management investment company
23 that is registered with the United States Securities and Exchange
24 Commission under the Investment Companies Act of 1940, 15
25 U.S.C. Section 80a-1-64 (1994 & Supp. V 1999), and whose
26 portfolio is restricted by the management company's investment
27 policy to shares of a person traded on a national securities exchange
28 or a national over-the-counter market, if the aggregate of
29 investments under this item does not exceed twenty percent of the
30 total permissible investments of a licensee and the licensee does not
31 at one time hold investments in any one person aggregating more
32 than ten percent of the licensee's total permissible investments;

33 (3) a demand-borrowing agreement made to a corporation or
34 a subsidiary of a corporation whose securities are traded on a
35 national securities exchange if the aggregate of the amount of
36 principal and interest outstanding under demand-borrowing
37 agreements under this item does not exceed twenty percent of the
38 total permissible investments of a licensee and the licensee does not
39 at one time hold principal and interest outstanding under
40 demand-borrowing agreements under this item with any one person
41 aggregating more than ten percent of the licensee's total permissible
42 investments; and

1 (4) another investment the commissioner designates, to the
2 extent specified by the commissioner.

3 (C) The aggregate of investments pursuant to subsection (B)
4 may not exceed fifty percent of the total permissible investments of
5 a licensee calculated pursuant to Section 35-11-600.

6
7 Article 7

8
9 Enforcement

10
11 Section 35-11-700. (A) The commissioner may suspend or
12 revoke a license or order a licensee to revoke the designation of an
13 authorized delegate if:

14 (1) the licensee violates this chapter or a rule adopted or an
15 order issued pursuant to this act;

16 (2) the licensee does not cooperate with an examination or
17 investigation by the commissioner;

18 (3) the licensee engages in fraud, intentional
19 misrepresentation, or gross negligence;

20 (4) an authorized delegate is convicted of a violation of a state
21 or federal anti-money laundering statute, or violates a rule adopted
22 or an order issued pursuant to this chapter, as a result of the
23 licensee's wilful misconduct or wilful blindness;

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

29 (6) the licensee engages in an unsafe or unsound practice;

30 (7) the licensee is insolvent, suspends payment of its
31 obligations, or makes a general assignment for the benefit of its
32 creditors; or

33 (8) the licensee does not remove an authorized delegate after
34 the commissioner issues and serves upon the licensee a final order
35 including a finding that the authorized delegate has violated this
36 chapter.

37 (B) In determining whether a licensee is engaging in an unsafe
38 or unsound practice, the commissioner may consider the size and
39 condition of the licensee's money transmission, the magnitude of
40 the loss, the gravity of the violation of this act, and the previous
41 conduct of the person involved.

42

1 Section 35-11-705. (A) The commissioner may issue an order
2 suspending or revoking the designation of an authorized delegate, if
3 the commissioner finds that the:

4 (1) authorized delegate violated this chapter or a rule adopted
5 or an order issued pursuant to this chapter;

6 (2) authorized delegate did not cooperate with an examination
7 or investigation by the commissioner;

8 (3) authorized delegate engaged in fraud, intentional
9 misrepresentation, or gross negligence;

10 (4) authorized delegate is convicted of a violation of a state or
11 federal anti-money laundering statute;

12 (5) competence, experience, character, or general fitness of
13 the authorized delegate or a person in control of the authorized
14 delegate indicates that it is not in the public interest to permit the
15 authorized delegate to provide money services; or

16 (6) authorized delegate is engaging in an unsafe or unsound
17 practice.

18 (B) In determining whether an authorized delegate is engaging
19 in an unsafe or unsound practice, the commissioner may consider
20 the size and condition of the authorized delegate's provision of
21 money services, the magnitude of the loss, the gravity of the
22 violation of this chapter or a rule adopted or order issued pursuant
23 to this chapter, and the previous conduct of the authorized delegate.

24 (C) An authorized delegate may apply for relief from a
25 suspension or revocation of designation as an authorized delegate
26 according to procedures prescribed by the commissioner.

27

28 Section 35-11-710. (A) If the commissioner determines that a
29 violation of this chapter or of a rule adopted or an order issued
30 pursuant to this chapter by a licensee or authorized delegate is likely
31 to cause immediate and irreparable harm to the licensee, its
32 customers, or the public as a result of the violation, or cause
33 insolvency or significant dissipation of assets of the licensee, the
34 commissioner may issue an order requiring the licensee or
35 authorized delegate to cease and desist from the violation. The order
36 becomes effective upon service of it upon the licensee or authorized
37 delegate.

38 (B) The commissioner may issue an order against a licensee to
39 cease and desist from providing money services through an
40 authorized delegate that is the subject of a separate order by the
41 commissioner.

1 (C) An order to cease and desist remains effective and
2 enforceable pending the completion of an administrative proceeding
3 pursuant to Section 35-11-700 or 35-11-705.

4
5 Section 35-11-715. The commissioner may enter into a consent
6 order at any time with a person to resolve a matter arising pursuant
7 to this chapter or a rule adopted or order issued pursuant to this
8 chapter. A consent order must be signed by the person to whom it
9 is issued or by the person's authorized representative, and must
10 indicate agreement with the terms contained in the order. A consent
11 order may provide that it does not constitute an admission by a
12 person that this chapter or a rule adopted or an order issued pursuant
13 to this chapter has been violated.

14
15 Section 35-11-720. The commissioner may assess a civil penalty
16 against a person that violates this chapter or a rule adopted or an
17 order issued pursuant to this chapter in an amount not to exceed one
18 thousand dollars per day for each day the violation is outstanding,
19 plus this state's costs and expenses for the investigation and
20 prosecution of the matter, including reasonable attorney fees.

21
22 Section 35-11-725. (A) A person who intentionally makes a
23 false statement, misrepresentation, or false certification in a record
24 filed or required to be maintained pursuant to this chapter, who
25 intentionally makes a false entry or omits a material entry in that
26 record, or violates a rule promulgated or order issued pursuant to
27 this chapter is guilty of a Class B felony.

28 (B) A person who knowingly engages in an activity for which a
29 license is required pursuant to this chapter without being licensed
30 pursuant to this chapter and who receives more than five hundred
31 dollars in compensation within a thirty-day period from this activity
32 is guilty of a Class B felony.

33 (C) A person who knowingly engages in an activity for which a
34 license is required pursuant to this chapter without being licensed
35 pursuant to this chapter and who receives no more than five hundred
36 dollars in compensation within a thirty-day period from this activity
37 is guilty of a Class A misdemeanor.

38
39 Section 35-11-730. (A) If the commissioner has reason to
40 believe that a person has violated or is violating Sections 35-11-200
41 or 35-11-300, the commissioner may issue an order to show cause
42 why an order to cease and desist should not be issued requiring the

1 person to cease and desist from the violation of Section 35-11-200
2 or 35-11-300.

3 (B) In an emergency, the commissioner may petition the
4 Richland County Circuit Court for the issuance of a temporary
5 restraining order ex parte pursuant to the rules of civil procedure.

6 (C) An order to cease and desist becomes effective upon service
7 of the order on the person.

8 (D) An order to cease and desist remains effective and
9 enforceable pending the completion of an administrative proceeding
10 pursuant to Sections 35-11-800 and 35-11-805.

11
12 Section 35-11-735.(A) Whenever a licensee has refused or is
13 unable to pay its obligations generally as they become due or
14 whenever it appears to the commissioner that a licensee is in an
15 unsafe or unsound condition, the commissioner may apply to the
16 Richland County Circuit Court or to the circuit court of any county
17 in which the licensee is located for the appointment of a receiver for
18 the licensee. The court may require the receiver to post a bond in an
19 amount that appears necessary to protect claimants of the licensee.

20 (B) The receiver, subject to the approval of the court, shall take
21 possession of the books, records, and assets of the licensee and shall
22 take an action with respect to employees, agents, or representatives
23 of the licensee or other action that may be necessary to conserve the
24 assets of the licensee or ensure payment of instruments issued by the
25 licensee pending further disposition of its business as provided by
26 law. The receiver shall sue and defend, compromise, and settle all
27 claims involving the licensee and exercise the powers and duties that
28 are necessary and consistent with the laws of this State applicable to
29 the appointment of receivers.

30 (C) The receiver, from time to time, but in no event less
31 frequently than once each calendar quarter, shall report to the court
32 with respect to all acts and proceedings in connection with the
33 receivership.

34
35 Section 35-11-740.(A)(1) A person who, knowing that the
36 property involved in a financial transaction represents the proceeds
37 of, or is derived directly or indirectly from the proceeds of unlawful
38 activity, conducts or attempts to conduct such a financial transaction
39 that in fact involves the proceeds:

40 (a) with the intent to promote the carrying on of unlawful
41 activity; or

1 (b) knowing that the transaction is designed in whole or in
2 part to conceal or disguise the nature, location, sources, ownership,
3 or control of the proceeds of unlawful activity;

4 is guilty of a felony and, upon conviction, must be punished as
5 follows:

6 (i) for a Class F felony if the transactions exceed three
7 hundred dollars but are less than twenty thousand dollars in a
8 twelve-month period;

9 (ii) for a Class E felony for transactions that total or
10 exceed twenty thousand dollars but are less than one hundred
11 thousand dollars in a twelve-month period; or

12 (iii) for a Class C felony for transactions that total or
13 exceed one hundred thousand dollars in a twelve-month period.

14 In addition to these penalties, a person who is found guilty of
15 or who pleads guilty or nolo contendere to having violated this
16 section may be sentenced to pay a fine not to exceed two hundred
17 fifty thousand dollars, or twice the value of the financial
18 transactions, whichever is greater; however, for a second or
19 subsequent violation of this section, the fine may be up to five
20 hundred thousand dollars, or quintuple the value of the financial
21 transactions, whichever is greater.

22 (2) A person who transports, transmits, or transfers, or
23 attempts to transport, transmit, or transfer a monetary instrument or
24 funds from a place in South Carolina to or through a place outside
25 the United States or to a place in South Carolina from or through a
26 place outside the United States:

27 (a) with the intent to promote the carrying on of unlawful
28 activity; or

29 (b) knowing that the monetary instrument or funds
30 involved in the transportation represent the proceeds of unlawful
31 activity and knowing that the transportation is designed in whole or
32 in part to conceal or disguise the nature, location, source, ownership,
33 or control of the proceeds of unlawful activity is guilty of a felony
34 and, upon conviction, must be punished as follows:

35 (i) for a Class F felony if the transactions exceed three
36 hundred dollars but are less than twenty thousand dollars in a
37 twelve-month period;

38 (ii) for a Class E felony for transactions that total or
39 exceed twenty thousand dollars but are less than one hundred
40 thousand dollars in a twelve-month period; or

41 (iii) for a Class C felony for transactions that total or
42 exceed one hundred thousand dollars in a twelve-month period.

1 In addition to the these penalties, a person who is found guilty of
2 or who pleads guilty or nolo contendere to having violated this
3 section may be sentenced to pay a fine not to exceed two hundred
4 fifty thousand dollars or twice the value of the financial transactions,
5 whichever is greater; however, for a second or subsequent violation
6 of this section, the fine may be up to five hundred thousand dollars,
7 or quintuple the value of the financial transactions, whichever is
8 greater.

9 (3) A person with the intent:

10 (a) to promote the carrying on of unlawful activity; or

11 (b) to conceal or disguise the nature, location, source,
12 ownership, or control of property believed to be the proceeds of
13 unlawful activity, conducts or attempts to conduct a financial
14 transaction involving property represented by a law enforcement
15 officer to be the proceeds of unlawful activity, or property used to
16 conduct or facilitate unlawful activity is guilty of a felony and, upon
17 conviction, must be punished as follows:

18 (i) for a Class F felony if the transactions exceed three
19 hundred dollars but are less than twenty thousand dollars in a
20 twelve-month period;

21 (ii) for a Class E felony for transactions that total or
22 exceed twenty thousand Dollars but are less than one hundred
23 thousand dollars in a twelve-month period; or

24 (iii) for a Class C felony for transactions that total or
25 exceed one hundred thousand dollars in a twelve-month period.

26 In addition to the these penalties, a person who is found guilty of
27 or who pleads guilty or nolo contendere to having violated this
28 section may be sentenced to pay a fine not to exceed two hundred
29 fifty thousand dollars or twice the value of the financial transactions,
30 whichever is greater; however, for a second or subsequent violation
31 of this section, the fine may be up to five hundred thousand dollars
32 or quintuple the value of the financial transactions, whichever is
33 greater.

34 For purposes of this subitem, the term ‘represented’ means a
35 representation made by a law enforcement officer or by another
36 person at the direction of, or with the approval of, a state official
37 authorized to investigate or prosecute violations of this section.

38 (B) A person who conducts or attempts to conduct a transaction
39 described in subsection (A)(1), or transportation described in
40 subsection (A)(2), is liable to the State for a civil penalty of not more
41 than the greater of:

42 (1) the value of the property, funds, or monetary instruments
43 involved in the transaction; or

1 (2) ten thousand dollars.

2 A court may issue a pretrial restraining order or take another
3 action necessary to ensure that a bank account or other property held
4 by the defendant in the United States is available to satisfy a civil
5 penalty under this section.

6 (C) As used in this section:

7 (1) the term ‘conducts’ includes initiating, concluding, or
8 participating in initiating or concluding a transaction;

9 (2) the term ‘transaction’ includes a purchase, sale, loan,
10 pledge, gift, transfer, delivery, or other disposition and, with respect
11 to a financial institution, includes a deposit, withdrawal, transfer
12 between accounts, exchange of currency, loan, extension of credit,
13 purchase or sale of a stock, bond, certificate of deposit, or other
14 monetary instrument, or another payment, transfer, or delivery by,
15 through, or to a financial institution, by whatever means effected;

16 (3) the term ‘financial transaction’ means a transaction
17 involving the movement of funds by wire or other means or
18 involving one or more monetary instruments;

19 (4) the term ‘monetary instruments’ means coin or currency
20 of the United States or of another country, travelers’ checks,
21 personal checks, bank checks, money orders, investment securities
22 in bearer form or otherwise in that form that title to it passes upon
23 delivery, and negotiable instruments in bearer form or otherwise in
24 that form that title to it passes upon delivery;

25 (5) the term ‘financial institution’ has the definition given that
26 term in Section 5312(a)(2), Title 31, United States Code, and the
27 regulations promulgated thereunder.

28 (D) Nothing in this section supersedes a provision of law
29 imposing criminal penalties or affording civil remedies in addition
30 to those provided for in this section, and nothing in this section
31 precludes reliance in the appropriate case upon the provisions set
32 forth in Section 44-53-475.

33

34 Article 8

35

36 Administrative Procedures

37

38 Section 35-11-800. All administrative proceedings pursuant to
39 this chapter must be conducted in accordance with Article 3,
40 Chapter 23, Title 1.

41

42 Section 35-11-805. Except as otherwise provided in Sections
43 35-11-225(C), 35-11-315(C), 35-11-710, and 35-11-730, the

1 commissioner may not suspend or revoke a license, issue an order
2 to cease and desist, suspend or revoke the designation of an
3 authorized delegate, or assess a civil penalty without notice and an
4 opportunity to be heard. The commissioner also shall hold a hearing
5 when requested to do so by an applicant whose application for a
6 license is denied.

7
8 Section 35-11-810. This chapter is administered by the
9 commissioner who may employ such additional assistants as he
10 deems necessary. The commissioner may delegate any or all of his
11 duties pursuant to this chapter to members of his staff, as he deems
12 necessary or appropriate.

13
14 Section 35-11-815. The commissioner may promulgate and
15 amend regulations or issue orders necessary to carry out the
16 purposes of this chapter in order to provide for the protection of the
17 public and to assist licensees in interpreting and complying with this
18 chapter.

19 Article 9

20
21 Miscellaneous Provisions

22
23 Section. 35-11-900. In applying and construing this Uniform
24 Act, consideration must be given to the need to promote uniformity
25 of the law with respect to its subject matter among states that enact
26 it.”

27
28 SECTION 2. Section 14-7-1630(A) of the 1976 Code, as last
29 amended by Act 7 of 2015, is further amended to read:

30
31 “(A) The jurisdiction of a state grand jury impaneled pursuant to
32 this article extends throughout the State. The subject matter
33 jurisdiction of a state grand jury in all cases is limited to the
34 following offenses:

35 (1) a crime involving narcotics, dangerous drugs, or
36 controlled substances, or a crime arising out of or in connection with
37 a crime involving narcotics, dangerous drugs, or controlled
38 substances, including, but not limited to, money laundering as
39 specified in Section 44-53-475, obstruction of justice, perjury or
40 subornation of perjury, or any attempt, aiding, abetting, solicitation,
41 or conspiracy to commit one of the aforementioned crimes, if the
42 crime is of a multi-county nature or has transpired or is transpiring
43 or has significance in more than one county of this State;

1 (2) a crime involving criminal gang activity or a pattern of
2 criminal gang activity pursuant to Article 3, Chapter 8, Title 16;
3 (3) a crime, statutory, common law or other, involving public
4 corruption as defined in Section 14-7-1615, a crime, statutory,
5 common law or other, arising out of or in connection with a crime
6 involving public corruption as defined in Section 14-7-1615, and
7 any attempt, aiding, abetting, solicitation, or conspiracy to commit
8 a crime, statutory, common law or other, involving public
9 corruption as defined in Section 14-7-1615;
10 (4) a crime involving the election laws, including, but not
11 limited to, those named offenses specified in Title 7, or a common
12 law crime involving the election laws if not superseded, or a crime
13 arising out of or in connection with the election laws, or any attempt,
14 aiding, abetting, solicitation, or conspiracy to commit a crime
15 involving the election laws;
16 (5) a crime involving computer crimes, pursuant to Chapter
17 16, Title 16, or a conspiracy or solicitation to commit a crime
18 involving computer crimes;
19 (6) a crime involving terrorism, or a conspiracy or solicitation
20 to commit a crime involving terrorism. Terrorism includes an
21 activity that:
22 (a) involves an act dangerous to human life that is a
23 violation of the criminal laws of this State;
24 (b) appears to be intended to:
25 (i) intimidate or coerce a civilian population;
26 (ii) influence the policy of a government by intimidation
27 or coercion; or
28 (iii) affect the conduct of a government by mass
29 destruction, assassination, or kidnapping; and
30 (c) occurs primarily within the territorial jurisdiction of this
31 State;
32 (7) a crime involving a violation of Chapter 1, Title 35 of the
33 Uniform Securities Act, or a crime related to securities fraud or a
34 violation of the securities laws;
35 (8) a crime involving obscenity, including, but not limited to,
36 a crime as provided in Article 3, Chapter 15, Title 16, or any attempt,
37 aiding, abetting, solicitation, or conspiracy to commit a crime
38 involving obscenity;
39 (9) a crime involving the knowing and wilful making of,
40 aiding and abetting in the making of, or soliciting or conspiring to
41 make a false, fictitious, or fraudulent statement or representation in
42 an affidavit regarding an alien's lawful presence in the United
43 States, as defined by law, if the number of violations exceeds twenty

1 or if the public benefit received by a person from a violation or
2 combination of violations exceeds twenty thousand dollars;

3 (10) a crime involving financial identity fraud or identity fraud
4 involving the false, fictitious, or fraudulent creation or use of
5 documents used in an immigration matter as defined in Section
6 16-13-525, if the number of violations exceeds twenty, or if the
7 value of the ascertainable loss of money or property suffered by a
8 person or persons from a violation or combination of violations
9 exceeds twenty thousand dollars;

10 (11) a crime involving the knowing and wilful making of,
11 aiding or abetting in the making of, or soliciting or conspiring to
12 make a false, fictitious, or fraudulent statement or representation in
13 a document prepared or executed as part of the provision of
14 immigration assistance services in an immigration matter, as defined
15 by law, if the number of violations exceeds twenty, or if a benefit
16 received by a person from a violation or combination of violations
17 exceeds twenty thousand dollars;

18 (12) a knowing and wilful crime involving actual and
19 substantial harm to the water, ambient air, soil or land, or both soil
20 and land. This crime includes a knowing and wilful violation of the
21 Pollution Control Act, the Atomic Energy and Radiation Control
22 Act, the State Underground Petroleum Environmental Response
23 Bank Act, the State Safe Drinking Water Act, the Hazardous Waste
24 Management Act, the Infectious Waste Management Act, the Solid
25 Waste Policy and Management Act, the Erosion and Sediment
26 Control Act, the South Carolina Mining Act, and the Coastal Zone
27 Management Act, or a knowing and wilful crime arising out of or in
28 connection with environmental laws, or any attempt, aiding,
29 abetting, solicitation, or conspiracy to commit a knowing and wilful
30 crime involving the environment if the anticipated actual damages,
31 including, but not limited to, the cost of remediation, is two million
32 dollars or more, as certified by an independent environmental
33 engineer who must be contracted by the Department of Health and
34 Environmental Control. If the knowing and wilful crime is a
35 violation of federal law, a conviction or an acquittal pursuant to
36 federal law for the same act is a bar to the impaneling of a state grand
37 jury pursuant to this section; ~~and~~

38 (13) a crime involving or relating to the offense of trafficking
39 in persons, as defined in Section 16-3-2020, when a victim is
40 trafficked in more than one county or a trafficker commits the
41 offense of trafficking in persons in more than one county; and

1 (14) A crime involving a violation of the South Carolina
2 Anti-Money Laundering Act as set forth in Chapter 11, Title 35, or
3 a crime related to a violation of the Anti-Money Laundering Act.”
4

5 SECTION 3. The repeal or amendment by this act of any law,
6 whether temporary or permanent or civil or criminal, does not affect
7 pending actions, rights, duties, or liabilities founded on this law, or
8 alter, discharge, release or extinguish any penalty, forfeiture, or
9 liability incurred under the repealed or amended law, unless the
10 repealed or amended provision expressly shall provide. After the
11 effective date of this act, all laws repealed or amended by this act
12 must be taken and treated as remaining in full force and effect for
13 the purpose of sustaining a pending or vested right, civil action,
14 special proceeding, criminal prosecution, or appeal existing as of the
15 effective date of this act, and for the enforcement of rights, duties,
16 penalties, forfeitures, and liabilities as they stood under the repealed
17 or amended laws. Moreover, the provisions of this act, to include
18 those provisions that amend existing laws, shall not apply to conduct
19 that occurred prior to the effective date of this act.
20

21 SECTION 4. The provisions of this act are severable. If any
22 section, subsection, paragraph, subparagraph, item, subitem,
23 sentence, clause, phrase, or word of this act is for any reason held to
24 be unconstitutional or invalid, that holding shall not affect the
25 constitutionality or validity of the remaining portions of the act, the
26 General Assembly hereby declaring that it would have passed each
27 and every section, subsection, paragraph, subparagraph, item,
28 subitem, sentence, clause, phrase, and word of the act, irrespective
29 of the fact that any one or more other sections, subsections,
30 paragraphs, subparagraphs, items, subitems, sentences, clauses,
31 phrases, or words of the act may be declared to be unconstitutional,
32 invalid, or otherwise ineffective.
33

34 SECTION 5. This act takes effect one year after approval of this
35 act by the Governor or upon the publication in the State Register of
36 final regulations implementing the act, whichever occurs later. The
37 commissioner is authorized to begin promulgating these regulations
38 upon approval of this act by the Governor which shall take effect
39 when this act takes effect as provided in this section.
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