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AN ACT
RELATING TO FINANCIAL INSTITUTIONS; ENACTING THE UNIFORM
MONEY SERVICES ACT; CREATING A FRAMEWORK FOR THE LICENSURE OF
PERSONS OR BUSINESSES TO ENGAGE IN MONEY TRANSMISSIONS, CHECK
CASHING AND CURRENCY EXCHANGE; PROVIDING POWERS AND DUTIES
FOR THE DIRECTOR OF THE FINANCIAL INSTITUTIONS DIVISION OF
THE REGULATION AND LICENSING DEPARTMENT; PRESCRIBING CIVIL
AND CRIMINAL PENALTIES; CREATING A FUND; MAKING AN
APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Article 1

GENERAL PROVISIONS

SECTION 101. SHORT TITLE.--This act may be cited as the
"Uniform Money Services Act".

SECTION 102. DEFINITIONS.--As used in the Uniform Money
Services Act:

A. "applicant" means a person that files an
application for a license pursuant to the Uniform Money
Services Act;

B. "authorized delegate" means a person that a
licensee designates to provide money services on behalf of
the licensee;

C. "bank" means an institution organized under
federal or state law that:

1 (1) accepts demand deposits or deposits that
2 the depositor may use for payment to third parties and
3 engages in the business of making commercial loans; or

4 (2) engages in credit card operations and
5 maintains only one office that accepts deposits, does not
6 accept demand deposits or deposits that the depositor may use
7 for payments to third parties, does not accept a savings or
8 time deposit less than one hundred thousand dollars
9 (\$100,000) and does not engage in the business of making
10 commercial loans;

11 D. "check cashing" means receiving compensation
12 for taking payment instruments or stored value, other than
13 traveler's checks, in exchange for money, payment instruments
14 or stored value delivered to the person delivering the
15 payment instrument or stored value at the time and place of
16 delivery without an agreement specifying when the person
17 taking the payment instrument will present it for collection;

18 E. "control" means:

19 (1) ownership of, or the power to vote,
20 directly or indirectly, at least twenty-five percent of a
21 class of voting securities or voting interests of a licensee
22 or person in control of a licensee;

23 (2) the power to elect, appoint, choose or
24 otherwise designate, directly or indirectly, a majority of
25 executive officers, managers, directors, trustees or other

1 persons exercising managerial authority of a licensee or
2 person in control of a licensee; or

3 (3) the power to exercise, directly or
4 indirectly, a controlling influence over the management or
5 policies of a licensee or person in control of a licensee;

6 F. "currency exchange" means receipt of revenues
7 from the exchange of money of one government for money of
8 another government;

9 G. "director" means the director of the financial
10 institutions division of the regulation and licensing
11 department;

12 H. "electronic" means relating to technology
13 having electrical, digital, magnetic, wireless, optical,
14 electromagnetic or similar capabilities;

15 I. "executive officer" means a president, chair of
16 the executive committee, chief financial officer, responsible
17 individual or other individual who performs similar
18 functions;

19 J. "internet-based money services business" means
20 a business that provides money transmission, check cashing or
21 currency exchange services to residents of New Mexico through
22 the internet;

23 K. "licensee" means a person licensed pursuant to
24 the Uniform Money Services Act;

25 L. "limited station" means private premises where

1 a check casher is authorized to engage in check cashing
2 solely for the employees of the particular employer or group
3 of employers specified in the check casher's license
4 application;

5 M. "mobile location" means a vehicle or a movable
6 facility where check cashing occurs;

7 N. "monetary value" means a medium of exchange,
8 whether or not redeemable in money;

9 O. "money" means a medium of exchange that is
10 authorized or adopted by the United States or a foreign
11 government. "Money" includes a monetary unit of account
12 established by an intergovernmental organization or by
13 agreement between two or more governments;

14 P. "money services" means money transmission,
15 check cashing or currency exchange;

16 Q. "money transmission" means selling or issuing
17 payment instruments, stored value or receiving money or
18 monetary value for transmission. "Money transmission" does
19 not include the provision solely of delivery, online or
20 telecommunications services or network access;

21 R. "nationwide mortgage licensing system and
22 registry" means a licensing system developed and maintained
23 by the conference of state bank supervisors and the American
24 association of residential mortgage regulators pursuant to
25 the federal Secure and Fair Enforcement for Mortgage

1 Licensing Act of 2008 to manage mortgage licenses and other
2 financial services licenses, or a successor registry;

3 S. "outstanding", with respect to a payment
4 instrument, means issued or sold by or for the licensee and
5 reported as sold but not yet paid by or for the licensee;

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

12 U. "person" means an individual, corporation,
13 business trust, estate, trust, partnership, limited liability
14 company, association, joint venture, government, governmental
15 subdivision, agency or instrumentality, public corporation or
16 any other legal or commercial entity;

17 V. "record", when used as a noun, means
18 information that is inscribed on a tangible medium or that is
19 stored in an electronic or other medium and is retrievable in
20 perceivable form;

21 W. "responsible individual" means an individual
22 who is employed by a licensee and has principal managerial
23 authority over the provision of money services by the
24 licensee in New Mexico;

25 X. "sign" means, with present intent to

1 authenticate or adopt a record:

2 (1) to execute or adopt a tangible symbol;

3 or

4 (2) to attach to or logically associate with
5 the record an electronic sound, symbol or process;

6 Y. "state" means a state of the United States, the
7 District of Columbia, Puerto Rico, the United States Virgin
8 Islands or any territory or insular possession subject to the
9 jurisdiction of the United States;

10 Z. "stored value" means monetary value that is
11 evidenced by an electronic record;

12 AA. "unique identifier" means a number or other
13 identifier assigned by protocols established by the
14 nationwide mortgage licensing system and registry; and

15 BB. "unsafe or unsound practice" means a practice
16 or conduct by a person licensed to engage in money
17 transmission or an authorized delegate of such a person that
18 creates the likelihood of material loss, insolvency or
19 dissipation of the licensee's assets, or otherwise materially
20 prejudices the interests of its customers.

21 **SECTION 103. EXCLUSIONS.--**The Uniform Money Services
22 Act does not apply to:

23 A. the United States or a department, agency or
24 instrumentality thereof;

25 B. money transmission by the United States postal

1 service or by a contractor on behalf of the United States
2 postal service;

3 C. a state, county, city or any other governmental
4 agency or governmental subdivision of a state;

5 D. a bank, bank holding company, office of an
6 international banking corporation, branch of a foreign bank,
7 corporation organized pursuant to the federal Bank Service
8 Company Act or corporation organized pursuant to the federal
9 Edge Act;

10 E. electronic funds transfer of governmental
11 benefits for a federal, state, county or governmental agency
12 by a contractor on behalf of the United States or a
13 department, agency or instrumentality thereof, or a state or
14 governmental subdivision, agency or instrumentality thereof;

15 F. a board of trade designated as a contract
16 market pursuant to the federal Commodity Exchange Act or a
17 person that, in the ordinary course of business, provides
18 clearance and settlement services for a board of trade to the
19 extent of its operation as or for such a board;

20 G. a registered futures commission merchant under
21 the federal commodities laws to the extent of its operation
22 as such a merchant;

23 H. a person that provides clearance or settlement
24 services pursuant to a registration as a clearing agency or
25 an exemption from such registration granted under the federal

1 securities laws to the extent of its operation as such a
2 provider;

3 I. an operator of a payment system to the extent
4 that it provides processing, clearing or settlement services,
5 between or among persons excluded by this section, in
6 connection with wire transfers, credit card transactions,
7 debit card transactions, stored-value transactions, automated
8 clearinghouse transfers or similar funds transfers;

9 J. a person registered as a securities
10 broker-dealer under federal or state securities laws to the
11 extent of its operation as such a broker-dealer;

12 K. an attorney or title company that, in
13 connection with a real property transaction, receives and
14 disburses domestic currency or issues an escrow or trust fund
15 check only on behalf of a party to the transaction;

16 L. a credit union regulated and insured by the
17 national credit union association; or

18 M. any other person, transaction or class of
19 persons or transactions exempted by the director's rule or
20 any other person or transaction exempted by the director's
21 order pursuant to a finding that the licensing of the person
22 or transaction is not necessary to achieve the purposes of
23 the Uniform Money Services Act.

24 Article 2

25 MONEY TRANSMISSION LICENSES

1 **SECTION 201. LICENSE REQUIRED.--**

2 A. A person shall not engage in the business of
3 money transmission or advertise, solicit or hold itself out
4 as providing money transmission unless the person:

5 (1) is licensed pursuant to Article 2 of the
6 Uniform Money Services Act; or

7 (2) is an authorized delegate of a person
8 licensed pursuant to Article 2 of the Uniform Money Services
9 Act.

10 B. A license pursuant to Article 2 of the Uniform
11 Money Services Act is not transferable or assignable.

12 **SECTION 202. APPLICATION FOR LICENSE.--**

13 A. A person applying for a license pursuant to
14 Article 2 of the Uniform Money Services Act shall apply in a
15 record signed under penalty of perjury that shall be in a
16 form and in a medium required by the director. Each form
17 shall contain content as set forth by rule, instruction or
18 procedure of the director. The form shall include the
19 following information:

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

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

1 preceding the submission of the application;

2 (3) a description of any money services
3 previously provided by the applicant and the money services
4 that the applicant seeks to provide in New Mexico;

5 (4) a list of the applicant's proposed
6 authorized delegates and the locations in New Mexico where
7 the applicant and its authorized delegates propose to engage
8 in money transmission or provide other money services;

9 (5) a list of other states in which the
10 applicant is licensed to engage in money transmission or
11 provide other money services and any license revocations,
12 suspensions or other disciplinary action taken against the
13 applicant in another state;

14 (6) information concerning any bankruptcy or
15 receivership proceedings affecting the applicant;

16 (7) a sample form of contract for authorized
17 delegates, if applicable, and a sample form of payment
18 instrument or instrument upon which stored value is recorded,
19 if applicable;

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

23 (9) a description of the source of money and
24 credit to be used by the applicant to provide money services;
25 and

1 (10) any other information the director
2 reasonably requires with respect to the applicant.

3 B. In order to fulfill the purposes of the Uniform
4 Money Services Act, the director may establish relationships
5 or contracts with the nationwide mortgage licensing system
6 and registry or other entities designated by the nationwide
7 mortgage licensing system and registry to collect and
8 maintain records and process transaction fees or other fees
9 related to applicants or other individuals subject to that
10 act.

11 C. In connection with an application for licensing
12 pursuant to Article 2 of the Uniform Money Services Act, the
13 applicant shall, at a minimum, furnish to the nationwide
14 mortgage licensing system and registry the following
15 information in a form and medium prescribed by the nationwide
16 mortgage licensing system and registry:

17 (1) the applicant's history and experience;
18 and

19 (2) an authorization for the nationwide
20 mortgage licensing system and registry and the director to
21 obtain:

22 (a) an independent credit report; and
23 (b) information related to any
24 administrative, civil or criminal findings by any
25 governmental jurisdiction.

1 D. If an applicant is a corporation, limited
2 liability company, partnership or other entity, the applicant
3 shall also provide:

4 (1) the date of the applicant's
5 incorporation or formation and the state or country of
6 incorporation or formation;

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

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

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

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

25 (6) a copy of the applicant's audited

1 financial statements for the most recent fiscal year and, if
2 available, for the two-year period next preceding the
3 submission of the application;

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

8 (8) if the applicant is publicly traded, a
9 copy of the most recent report filed with the United States
10 securities and exchange commission pursuant to Section 13 of
11 the federal Securities Exchange Act of 1934;

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

14 (a) a corporation publicly traded in
15 the United States, a copy of audited financial statements for
16 the parent corporation for the most recent fiscal year or a
17 copy of the parent corporation's most recent report filed
18 pursuant to Section 13 of the federal Securities Exchange Act
19 of 1934; or

20 (b) a corporation publicly traded
21 outside the United States, a copy of similar documentation
22 filed with the regulator of the parent corporation's domicile
23 outside the United States;

24 (10) if the applicant has a registered agent
25 in New Mexico, the name and address of the applicant's

1 registered agent in New Mexico; and

2 (11) any other information the director
3 reasonably requires with respect to the applicant.

4 E. A nonrefundable application fee of two thousand
5 dollars (\$2,000) and a nonrefundable license fee of two
6 thousand dollars (\$2,000) shall accompany an application for
7 a license pursuant to Article 2 of the Uniform Money Services
8 Act. The application shall also be accompanied by the surety
9 bond or other security required by Section 203 of the Uniform
10 Money Services Act.

11 F. The director may waive one or more requirements
12 of Subsection C or D of this section or permit an applicant
13 to submit other information in lieu of the required
14 information.

15 G. As used in this section, "material litigation"
16 means litigation that, according to generally accepted
17 accounting principles, is significant to an applicant's or a
18 licensee's financial health and would be required to be
19 disclosed in the applicant's or licensee's annual audited
20 financial statements, report to shareholders or similar
21 records.

22 **SECTION 203. SECURITY.--**

23 A. Except as otherwise provided in Subsection B of
24 this section, a surety bond, letter of credit, or other
25 similar security acceptable to the director shall accompany

1 an application for a license pursuant to Article 2 of the
2 Uniform Money Services Act. Except as otherwise provided in
3 Subsections D and F of this section, the required security
4 shall be in the amount of three hundred thousand dollars
5 (\$300,000) or an amount equal to one percent of the
6 licensee's total yearly dollar volume of money transmission
7 business in this state or the applicant's projected total
8 volume of business in this state for the first year of
9 licensure, whichever is greater, up to a maximum of two
10 million dollars (\$2,000,000).

11 B. The security shall be in form and substance and
12 from an issuer satisfactory to the director and payable to
13 New Mexico for the benefit of any claimant against the
14 licensee to secure the faithful performance of the
15 obligations of the licensee with respect to money
16 transmission.

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

21 D. A surety bond shall cover claims for so long as
22 the director specifies, but for at least five years after the
23 licensee ceases to provide money services in New Mexico.
24 However, the director may permit the amount of security to be
25 reduced or eliminated before the expiration of that time to

1 the extent the amount of the licensee's payment instruments
2 or stored-value obligations outstanding in New Mexico is
3 reduced. The director may permit a licensee to substitute
4 another form of security acceptable to the director for the
5 security effective at the time the licensee ceases to provide
6 money services in New Mexico.

7 E. In lieu of the security prescribed in this
8 section, an applicant for a license or a licensee may provide
9 security in form and substance and from an issuer prescribed
10 by the director.

11 F. The director may increase the amount of
12 security required to a maximum of five million dollars
13 (\$5,000,000) if the financial condition of a licensee so
14 requires, as evidenced by reduction of net worth, financial
15 losses or other relevant criteria.

16 **SECTION 204. ISSUANCE OF LICENSE.--**

17 A. When an application is filed pursuant to
18 Article 2 of the Uniform Money Services Act, the director
19 shall investigate the applicant's financial condition and
20 responsibility, financial and business experience, character
21 and general fitness. The director may conduct an onsite
22 investigation of the applicant, in New Mexico or in any other
23 state or country, the reasonable cost of which the applicant
24 shall pay. The director shall issue a license to an
25 applicant pursuant to Article 2 of the Uniform Money Services

1 Act if the director finds that all of the following
2 conditions have been fulfilled:

3 (1) the applicant has complied with Sections
4 202, 203 and 206 of the Uniform Money Services Act; and

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

13 B. When an application for an original license
14 pursuant to Article 2 of the Uniform Money Services Act is
15 complete, the director shall promptly notify the applicant in
16 a record of the date on which the application was determined
17 to be complete and:

18 (1) the director shall approve or deny the
19 application within one hundred twenty days after that date;
20 or

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

23 (a) the application is deemed approved;
24 and

25 (b) the license takes effect as of the

1 first business day after expiration of the one-hundred-
2 twenty-day period.

3 C. The director may for good cause extend the
4 application period.

5 D. An applicant whose application is denied by the
6 director pursuant to Article 2 of the Uniform Money Services
7 Act may appeal the denial, within thirty days after receipt
8 of the notice of the denial, and request a hearing.

9 **SECTION 205. RENEWAL OF LICENSE.--**

10 A. A license issued pursuant to Article 2 of the
11 Uniform Money Services Act shall expire on December 31 each
12 year. A licensee pursuant to Article 2 of the Uniform Money
13 Services Act shall pay an annual renewal fee of one thousand
14 dollars (\$1,000) and twenty-five dollars (\$25.00) for each
15 authorized delegate before November 1 of each year or, if
16 November 1 is not a business day, on the next business day.

17 B. A licensee pursuant to Article 2 of the Uniform
18 Money Services Act shall submit a renewal report with the
19 renewal fee, in a record signed under penalty of perjury that
20 shall be in a form and in a medium prescribed by the
21 director. The renewal report shall state or contain:

22 (1) a copy of the licensee's most recent
23 audited annual financial statement or, if the licensee is a
24 wholly owned subsidiary of another corporation, the most
25 recent audited consolidated annual financial statement of the

1 parent corporation or the licensee's most recent audited
2 consolidated annual financial statement;

3 (2) the number and monetary amount of
4 payment instruments and stored value sold by the licensee in
5 New Mexico that have not been included in a renewal report
6 and the monetary amount of payment instruments and stored
7 value currently outstanding;

8 (3) a description of each material change in
9 information submitted by the licensee in its original license
10 application that has not been reported to the director on any
11 required report;

12 (4) a list of the licensee's permissible
13 investments and a certification that the licensee continues
14 to maintain permissible investments according to the
15 requirements set forth in Sections 701 and 702 of the Uniform
16 Money Services Act;

17 (5) proof that the licensee continues to
18 maintain adequate security as required by Section 203 of the
19 Uniform Money Services Act; and

20 (6) a list of the locations in New Mexico
21 where the licensee or an authorized delegate of the licensee
22 engages in money transmission or provides other money
23 services.

24 C. If a licensee does not file a renewal report or
25 pay its renewal fee by the renewal date or any extension of

1 time granted by the director, the director shall send the
2 licensee a notice of suspension. Unless the licensee files
3 the report and pays the renewal fee before expiration of ten
4 days after the notice is sent, the licensee's license is
5 suspended ten days after the director sends the notice of
6 suspension. The suspension shall be lifted if, within twenty
7 days after its license is suspended, the licensee:

8 (1) files the report and pays the renewal
9 fee; and

10 (2) pays one hundred dollars (\$100) for each
11 day after suspension that the director did not receive the
12 renewal report and the renewal fee.

13 D. The director for good cause may grant an
14 extension of the renewal date.

15 **SECTION 206. NET WORTH.--**A licensee pursuant to Article
16 2 of the Uniform Money Services Act shall maintain a net
17 worth of at least the following amounts determined in
18 accordance with generally accepted accounting principles:

19 A. for one to four locations of the licensee and
20 authorized delegates in New Mexico, one hundred thousand
21 dollars (\$100,000); and

22 B. for five or more locations of the licensee and
23 authorized delegates in New Mexico or for an internet-based
24 money services business, five hundred thousand dollars
25 (\$500,000).

1 Article 3

2 CHECK CASHING LICENSES

3 SECTION 301. LICENSE REQUIRED.--

4 A. A person shall not engage in check cashing or
5 advertise, solicit or hold itself out as providing check
6 cashing for which the person receives at least five hundred
7 dollars (\$500) within a thirty-day period unless the person:

8 (1) is licensed pursuant to Article 3 of the
9 Uniform Money Services Act;

10 (2) is licensed for money transmission
11 pursuant to Article 2 of the Uniform Money Services Act;

12 (3) is licensed for currency exchange
13 pursuant to Article 4 of the Uniform Money Services Act; or

14 (4) is an authorized delegate of a person
15 licensed pursuant to Article 2 of the Uniform Money Services
16 Act.

17 B. A license pursuant to Article 3 of the Uniform
18 Money Services Act is not transferable or assignable.

19 SECTION 302. APPLICATION FOR LICENSE.--

20 A. A person applying for a license pursuant to
21 Article 3 of the Uniform Money Services Act shall apply in a
22 record signed under penalty of perjury that shall be in a
23 form and in a medium required by the director. Each form
24 shall contain content as set forth by rule, instruction or
25 procedure of the director. The form shall include the

1 following information:

2 (1) the legal name and residential and
3 business addresses of the applicant if the applicant is an
4 individual or, if the applicant is not an individual, the
5 name of each partner, executive officer, manager and
6 director;

7 (2) the location of the principal office of
8 the applicant;

9 (3) complete addresses of other locations in
10 New Mexico where the applicant proposes to engage in check
11 cashing or currency exchange, including all limited stations
12 and mobile locations;

13 (4) a description of the source of money and
14 credit to be used by the applicant to engage in check cashing
15 and currency exchange; and

16 (5) other information the director
17 reasonably requires with respect to the applicant, but not
18 more than the director may require pursuant to Article 2 of
19 the Uniform Money Services Act.

20 B. In connection with an application for licensing
21 pursuant to Article 3 of the Uniform Money Services Act, the
22 applicant shall, at a minimum, furnish to the nationwide
23 mortgage licensing system and registry the following
24 information in a form and medium prescribed by the nationwide
25 mortgage licensing system and registry:

1 (1) the applicant's history and experience;
2 and

3 (2) an authorization for the nationwide
4 mortgage licensing system and registry and the director to
5 obtain:

6 (a) an independent credit report; and
7 (b) information related to any
8 administrative, civil or criminal findings by any
9 governmental jurisdiction.

10 C. A nonrefundable application fee of two thousand
11 dollars (\$2,000) and a nonrefundable license fee of two
12 thousand dollars (\$2,000) shall accompany an application for
13 a license pursuant to Article 3 of the Uniform Money Services
14 Act.

15 **SECTION 303. ISSUANCE OF LICENSE.--**

16 A. When an application is filed pursuant to
17 Article 3 of the Uniform Money Services Act, the director
18 shall investigate the applicant's financial condition and
19 responsibility, financial and business experience, character
20 and general fitness. The director may conduct an onsite
21 investigation of the applicant, in New Mexico or in any other
22 state or country, the reasonable cost of which the applicant
23 shall pay. The director shall issue a license to an
24 applicant pursuant to Article 3 of the Uniform Money Services
25 Act if the director finds that all of the following

1 conditions have been fulfilled:

2 (1) the applicant has complied with Section
3 302 of the Uniform Money Services Act; and

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

12 B. When an application for an original license
13 pursuant to Article 3 of the Uniform Money Services Act is
14 complete, the director shall promptly notify the applicant in
15 a record of the date on which the application was determined
16 to be complete and:

17 (1) the director shall approve or deny the
18 application within one hundred twenty days after that date;
19 or

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

22 (a) the application is deemed approved;
23 and

24 (b) the director shall issue the
25 license, pursuant to Article 3 of the Uniform Money Services

1 Act, to take effect as of the first business day after
2 expiration of the one-hundred-twenty-day period.

3 C. The director may for good cause extend the
4 application period.

5 D. An applicant whose application is denied by the
6 director pursuant to Article 3 of the Uniform Money Services
7 Act may appeal the denial, within thirty days after receipt
8 of the notice of the denial, and request a hearing.

9 **SECTION 304. RENEWAL OF LICENSE.--**

10 A. A license issued pursuant to Article 3 of the
11 Uniform Money Services Act shall expire on December 31 each
12 year. A licensee pursuant to Article 3 of the Uniform Money
13 Services Act shall pay an annual renewal fee of one thousand
14 dollars (\$1,000) before November 1 of each year or, if
15 November 1 is not a business day, on the next business day.

16 B. A licensee pursuant to Article 3 of the Uniform
17 Money Services Act shall submit a renewal report with the
18 renewal fee in a record signed under penalty of perjury that
19 shall be in a form and in a medium prescribed by the
20 director. The renewal report shall state or contain:

21 (1) a description of each material change in
22 information submitted by the licensee in its original license
23 application that has not been reported to the director on any
24 required report; and

25 (2) a list of the locations in New Mexico

1 where the licensee or an authorized delegate of the licensee
2 engages in check cashing or currency exchange, including
3 limited stations and mobile locations.

4 C. If a licensee does not file a renewal report or
5 pay its renewal fee by the renewal date or any extension of
6 time granted by the director, the director shall send the
7 licensee a notice of suspension. Unless the licensee files
8 the report and pays the renewal fee before expiration of ten
9 days after the notice is sent, the licensee's license is
10 suspended ten days after the director sends the notice of
11 suspension. The suspension shall be lifted if, within twenty
12 days after its license is suspended, the licensee:

13 (1) files the report and pays the renewal
14 fee; and

15 (2) pays one hundred dollars (\$100) for each
16 day after suspension that the director did not receive the
17 renewal report and the renewal fee.

18 D. The director for good cause may grant an
19 extension of the renewal date.

20 Article 4

21 CURRENCY EXCHANGE LICENSES

22 SECTION 401. LICENSE REQUIRED.--

23 A. A person shall not engage in currency exchange
24 or advertise, solicit or hold itself out as providing
25 currency exchange for which the person receives revenues

1 equal or greater than five percent of total revenues unless
2 the person:

3 (1) is licensed pursuant to Article 4 of the
4 Uniform Money Services Act;

5 (2) is licensed for money transmission
6 pursuant to Article 2 of the Uniform Money Services Act;

7 (3) is licensed for check cashing pursuant
8 to Article 3 of the Uniform Money Services Act; or

9 (4) is an authorized delegate of a person
10 licensed pursuant to Article 2 of the Uniform Money Services
11 Act.

12 B. A license pursuant to Article 4 of the Uniform
13 Money Services Act is not transferable or assignable.

14 **SECTION 402. APPLICATION FOR LICENSE.--**

15 A. A person applying for a license pursuant to
16 Article 4 of the Uniform Money Services Act shall apply in a
17 record signed under penalty of perjury that shall be in a
18 form and in a medium required by the director. Each form
19 shall contain content as set forth by rule, instruction or
20 procedure of the director. The form shall include the
21 following information:

22 (1) the legal name and residential and
23 business addresses of the applicant if the applicant is an
24 individual or, if the applicant is not an individual, the
25 name of each partner, executive officer, manager and

1 director;

2 (2) the location of the principal office of
3 the applicant;

4 (3) complete addresses of other locations in
5 New Mexico where the applicant proposes to engage in currency
6 exchange or check cashing, including all limited stations and
7 mobile locations;

8 (4) a description of the source of money and
9 credit to be used by the applicant to engage in check cashing
10 and currency exchange; and

11 (5) other information the director
12 reasonably requires with respect to the applicant, but not
13 more than the director may require pursuant to Article 2 of
14 the Uniform Money Services Act.

15 B. In connection with an application for licensing
16 pursuant to Article 4 of the Uniform Money Services Act, the
17 applicant shall, at a minimum, furnish to the nationwide
18 mortgage licensing system and registry the following
19 information in a form and medium prescribed by the nationwide
20 mortgage licensing system and registry:

21 (1) the applicant's history and experience;
22 and

23 (2) an authorization for the nationwide
24 mortgage licensing system and registry and the director to
25 obtain:

1 (a) an independent credit report; and
2 (b) information related to any
3 administrative, civil or criminal findings by any
4 governmental jurisdiction.

5 C. A nonrefundable application fee of two thousand
6 dollars (\$2,000) and a nonrefundable license fee of two
7 thousand dollars (\$2,000) shall accompany an application for
8 a license pursuant to Article 4 of the Uniform Money Services
9 Act.

10 SECTION 403. ISSUANCE OF LICENSE.--

11 A. When an application is filed pursuant to
12 Article 4 of the Uniform Money Services Act, the director
13 shall investigate the applicant's financial condition and
14 responsibility, financial and business experience, character
15 and general fitness. The director may conduct an onsite
16 investigation of the applicant, in New Mexico or in any other
17 state or country, the reasonable cost of which the applicant
18 shall pay. The director shall issue a license to an
19 applicant pursuant to Article 4 of the Uniform Money Services
20 Act if the director finds that all of the following
21 conditions have been fulfilled:

22 (1) the applicant has complied with Section
23 402 of the Uniform Money Services Act; and

24 (2) the financial condition and
25 responsibility, financial and business experience,

1 competence, character and general fitness of the applicant
2 and the competence, experience, character and general fitness
3 of the executive officers, managers, directors and persons in
4 control of the applicant indicate that it is in the interest
5 of the public to permit the applicant to engage in currency
6 exchange.

7 B. When an application for an original license
8 pursuant to Article 4 of the Uniform Money Services Act is
9 complete, the director shall promptly notify the applicant in
10 a record of the date on which the application was determined
11 to be complete and:

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

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

17 (a) the application is deemed approved;
18 and

19 (b) the director shall issue the
20 license, pursuant to Article 4 of the Uniform Money Services
21 Act, to take effect as of the first business day after
22 expiration of the one-hundred-twenty-day period.

23 C. The director may for good cause extend the
24 application period.

25 D. An applicant whose application is denied a

1 license by the director pursuant to Article 4 of the Uniform
2 Money Services Act may appeal the denial, within thirty days
3 after receipt of the notice of the denial, and request a
4 hearing.

5 SECTION 404. RENEWAL OF LICENSE.--

6 A. A license issued pursuant to Article 4 of the
7 Uniform Money Services Act shall expire on December 31 each
8 year. A licensee pursuant to Article 4 of the Uniform Money
9 Services Act shall pay an annual renewal fee of one thousand
10 dollars (\$1,000) before November 1 of each year or, if
11 November 1 is not a business day, on the next business day.

12 B. A licensee pursuant to Article 4 of the Uniform
13 Money Services Act shall submit a renewal report with the
14 renewal fee in a record signed under penalty of perjury that
15 shall be in a form and in a medium prescribed by the
16 director. The renewal report shall state or contain:

17 (1) a description of each material change in
18 information submitted by the licensee in its original license
19 application that has not been reported to the director on any
20 required report; and

21 (2) a list of the locations in New Mexico
22 where the licensee or an authorized delegate of the licensee
23 engages in currency exchange or check cashing, including
24 limited stations and mobile locations.

25 C. If a licensee does not file a renewal report

1 and pay its renewal fee by the renewal date or any extension
2 of time granted by the director, the director shall send the
3 licensee a notice of suspension. Unless the licensee files
4 the report and pays the renewal fee before expiration of ten
5 days after the notice is sent, the licensee's license is
6 suspended ten days after the director sends the notice of
7 suspension. The suspension shall be lifted if, within twenty
8 days after its license is suspended, the licensee:

9 (1) files the report and pays the renewal
10 fee; and

11 (2) pays one hundred dollars (\$100) for each
12 day after suspension that the director did not receive the
13 renewal report and the renewal fee.

14 D. The director for good cause may grant an
15 extension of the renewal date.

16 Article 5

17 AUTHORIZED DELEGATES

18 SECTION 501. RELATIONSHIP BETWEEN LICENSEE AND
19 AUTHORIZED DELEGATE.--

20 A. As used in this section, "remit" means:

21 (1) to make direct payments of money to a
22 licensee or its representative authorized to receive money;
23 or

24 (2) to deposit money in a bank in an account
25 specified by the licensee.

1 B. A contract between a licensee and an authorized
2 delegate shall require the authorized delegate to operate in
3 full compliance with the Uniform Money Services Act. The
4 licensee shall furnish in a record to each authorized
5 delegate policies and procedures sufficient for compliance
6 with the Uniform Money Services Act.

7 C. For each authorized delegate, the licensee
8 shall maintain records that demonstrate the licensee
9 conducted a reasonable background investigation of each
10 authorized delegate. A licensee shall preserve those records
11 for at least five years after the authorized delegate's most
12 recent designation by the licensee.

13 D. An authorized delegate shall remit all money
14 owing to the licensee in accordance with the terms of the
15 contract between the licensee and the authorized delegate.

16 E. If a license is suspended or revoked or a
17 licensee does not renew its license, the director shall
18 notify all authorized delegates of the licensee whose names
19 are in a record filed with the director of the suspension,
20 revocation or nonrenewal. After notice is sent or
21 publication is made, an authorized delegate shall immediately
22 cease to provide money services as a delegate of the
23 licensee.

24 F. An authorized delegate shall not provide money
25 services outside the scope of activity permissible pursuant

1 to the contract between the authorized delegate and the
2 licensee, except activity in which the authorized delegate is
3 authorized to engage pursuant to Article 2, 3 or 4 of the
4 Uniform Money Services Act. An authorized delegate of a
5 licensee holds in trust for the benefit of the licensee all
6 money net of fees received from money transmission.

7 G. An authorized delegate shall not use a
8 subdelegate to conduct money services on behalf of a
9 licensee.

10 H. Whenever a licensee first advises the director
11 of the identity of a proposed delegate, the licensee shall
12 pay a nonrefundable fee of twenty-five dollars (\$25.00) for
13 each proposed delegate.

14 **SECTION 502. UNAUTHORIZED ACTIVITY.--**A person shall
15 only act as a delegate for a licensee. A person that
16 provides money services on behalf of a person not licensed
17 pursuant to the Uniform Money Services Act is considered to
18 act in its own capacity and may be subject to civil and
19 criminal penalties for providing money services without a
20 license.

21 Article 6

22 EXAMINATIONS; REPORTS; RECORDS

23 **SECTION 601. AUTHORITY TO CONDUCT EXAMINATIONS.--**

24 A. The director may conduct an annual examination
25 of a licensee or of any of its authorized delegates upon

1 forty-five days' notice in a record to the licensee.

2 B. The director may examine a licensee or its
3 authorized delegate at any time, without notice, if the
4 director has reason to believe that the licensee or
5 authorized delegate is engaging in an unsafe or unsound
6 practice or has violated or is violating the Uniform Money
7 Services Act or a rule adopted or an order issued pursuant to
8 that act.

9 C. If the director concludes that an onsite
10 examination is necessary pursuant to Subsection A of this
11 section, in New Mexico or in any other state or country, the
12 licensee shall pay the reasonable cost of the examination.

13 D. Information obtained during an examination
14 pursuant to the Uniform Money Services Act may be disclosed
15 only as provided in Section 607 of that act.

16 **SECTION 602. COOPERATION.**--The director may consult and
17 cooperate with other state agencies, agencies of another
18 state or of the United States or the nationwide mortgage
19 licensing system and registry in enforcing and administering
20 the Uniform Money Services Act. They may jointly pursue
21 examinations and take other official action that they are
22 otherwise empowered to take.

23 **SECTION 603. REPORTS.**--

24 A. A licensee shall file with the director a
25 record signed under penalty of perjury that shall be in a

1 form and in a medium prescribed by the director and that
2 shall contain any material change in information provided in
3 the licensee's application or the information provided by the
4 licensee to the nationwide mortgage licensing system and
5 registry. The record shall be filed within fifteen business
6 days after the licensee has reason to know of the change.

7 B. A licensee shall file with the director within
8 forty-five days after the end of each fiscal quarter a record
9 signed under penalty of perjury that shall be in a form and
10 in a medium prescribed by the director and that shall contain
11 a current list of all authorized delegates and locations in
12 New Mexico where the licensee or an authorized delegate of
13 the licensee provides money services, including limited
14 stations and mobile locations. The licensee shall state the
15 name and street address of each location and authorized
16 delegate.

17 C. A licensee shall file a report with the
18 director within one business day after the licensee has
19 reason to know of the occurrence of any of the following
20 events:

21 (1) the filing of a petition by or against
22 the licensee pursuant to the United States Bankruptcy Code
23 for bankruptcy or reorganization;

24 (2) the filing of a petition by or against
25 the licensee for receivership, the commencement of any other

1 judicial or administrative proceeding for its dissolution or
2 reorganization or the making of a general assignment for the
3 benefit of its creditors;

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

7 (4) the cancellation or other impairment of
8 the licensee's bond or other security;

9 (5) a charge or conviction of the licensee
10 or of an executive officer, manager, director or person in
11 control of the licensee for a felony; or

12 (6) a charge or conviction of an authorized
13 delegate for a felony.

14 D. The report required pursuant to Subsection C of
15 this section shall be a record signed under penalty of
16 perjury and in a form and in a medium prescribed by the
17 director and shall describe the event requiring the report.

18 **SECTION 604. CHANGE OF CONTROL.--**

19 A. A licensee shall:

20 (1) give the director notice in a record
21 signed under penalty of perjury in a form and in a medium
22 prescribed by the director of a proposed change of control
23 within fifteen days after learning of the proposed change of
24 control;

25 (2) request approval by the director of the

1 proposed change of control; and

2 (3) submit a nonrefundable fee of two
3 thousand dollars (\$2,000) with the notice.

4 B. After review of a request for approval pursuant
5 to Subsection A of this section, the director may require the
6 licensee to provide in a record signed under penalty of
7 perjury in a form and in a medium prescribed by the director
8 additional information concerning the proposed persons in
9 control of the licensee. The additional information shall be
10 limited to the same types required of the licensee or persons
11 in control of the licensee as part of its original license or
12 renewal application.

13 C. The director shall approve a request for change
14 of control pursuant to Subsection A of this section if, after
15 investigation, the director determines that the person or
16 group of persons requesting approval has the competence,
17 experience, character and general fitness to operate the
18 licensee or person in control of the licensee in a lawful and
19 proper manner and that the public interest will not be
20 jeopardized by the change of control.

21 D. When an application for a change of control
22 pursuant to Article 6 of the Uniform Money Services Act is
23 complete, the director shall notify the licensee in a record
24 of the date on which the request was determined to be
25 complete and:

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

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

5 (a) the request is deemed approved; and

6 (b) the director shall permit the
7 change of control, pursuant to this section, to take effect
8 as of the first business day after expiration of the one-
9 hundred-twenty-day period.

10 E. The director, by rule or order, may exempt a
11 person from any of the requirements of Paragraphs (2) and (3)
12 of Subsection A of this section if it is in the public
13 interest to do so.

14 F. Subsection A of this section does not apply to
15 a public offering of securities.

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

1 SECTION 605. RECORDS.--

2 A. A licensee shall maintain the following records
3 for determining its compliance with the Uniform Money
4 Services Act for at least three years:

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

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

10 (3) bank statements and bank reconciliation
11 records;

12 (4) records of outstanding payment
13 instruments and stored-value obligations;

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

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

18 (7) any other records the director
19 reasonably requires by rule.

20 B. The items specified in Subsection A of this
21 section may be maintained in writing, electronically or in
22 any other form of record that is permitted by the director.

23 C. Records may be maintained outside New Mexico if
24 they are made accessible to the director on seven business-
25 days' notice that is sent in a record.

1 D. All records maintained by the licensee as
2 required in Subsections A through C of this section are open
3 to inspection by the director pursuant to Section 601 of the
4 Uniform Money Services Act.

5 **SECTION 606. MONEY LAUNDERING REPORTS.--**

6 A. A licensee and an authorized delegate shall
7 file with the New Mexico attorney general all reports
8 required by federal currency reporting, recordkeeping and
9 suspicious transaction reporting requirements as set forth in
10 31 U.S.C. Section 5311 et seq. (1994) or any successor law;
11 and other federal and state laws pertaining to money
12 laundering.

13 B. The timely filing of a complete and accurate
14 report required under Subsection A of this section with the
15 appropriate federal agency is compliance with the
16 requirements of that subsection, unless the director notifies
17 the licensee that the New Mexico attorney general has
18 notified the director that reports of this type are not being
19 regularly and comprehensively made available by the federal
20 agency to the New Mexico attorney general.

21 C. In connection with each transaction that
22 involves transmitting money in an amount of one thousand
23 dollars (\$1,000) or more, whether sending or receiving, a
24 licensee or, for a transaction conducted through an
25 authorized delegate, an authorized delegate, shall retain a

1 record of each of the following:

2 (1) the name and social security or taxpayer
3 identification number, if any, of the individual presenting
4 the transaction and of the person and the entity on whose
5 behalf the transaction is to be effected;

6 (2) the type and number of the customer's
7 verified photographic identification as described in 31 Code
8 of Federal Regulations Section 1010.312 or any successor
9 regulations;

10 (3) the customer's current occupation;

11 (4) the customer's current residential
12 address; and

13 (5) the customer's signature.

14 D. The provisions of Subsection C of this section
15 shall not apply to transactions by which a licensee's
16 customer is making a bill payment to:

17 (1) a commercial creditor pursuant to a
18 contract between the licensee and the commercial creditor; or

19 (2) a utility company.

20 **SECTION 607. CONFIDENTIALITY.--**

21 A. Except as otherwise provided in Subsection B of
22 this section, all information or reports obtained by the
23 director from an applicant, licensee or authorized delegate
24 and all information contained in or related to examination,
25 investigation, operating or condition reports prepared by, on

1 behalf of or for the use of the director, or financial
2 statements, balance sheets or authorized delegate
3 information, are confidential and are not subject to
4 disclosure pursuant to the Public Records Act or any similar
5 law.

6 B. The director may disclose information not
7 otherwise subject to disclosure pursuant to Subsection A of
8 this section to representatives of state or federal agencies
9 who promise in a record signed under penalty of perjury in a
10 form and in a medium prescribed by the director that they
11 will maintain the confidentiality of the information or if
12 the director finds that the release is reasonably necessary
13 for the protection of the public and is in the interests of
14 justice and the licensee has been given not fewer than ten
15 days' notice in a record by the director of the director's
16 intent to release the information.

17 C. This section does not prohibit the director
18 from disclosing to the public a list of persons licensed
19 pursuant to the Uniform Money Services Act or the aggregated
20 financial data concerning those licensees.

21 Article 7

22 PERMISSIBLE INVESTMENTS

23 SECTION 701. MAINTENANCE OF PERMISSIBLE INVESTMENTS.--

24 A. A licensee shall maintain at all times
25 permissible investments that have a market value computed in

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

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

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

19 **SECTION 702. TYPES OF PERMISSIBLE INVESTMENTS.--**

20 A. Except to the extent otherwise limited by the
21 director pursuant to Section 701 of the Uniform Money
22 Services Act, the following investments are permissible
23 pursuant to Section 701 of that act:

24 (1) cash, a certificate of deposit or senior
25 debt obligation of an insured depository institution as

1 defined in Section 3 of the Federal Deposit Insurance Act;

2 (2) a banker's acceptance or bill of
3 exchange that is eligible for purchase upon endorsement by a
4 member bank of the federal reserve system and is eligible for
5 purchase by a federal reserve bank;

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

9 (4) an investment security that is an
10 obligation of the United States or a department, agency or
11 instrumentality thereof; an investment in an obligation that
12 is guaranteed fully as to principal and interest by the
13 United States; or an investment in an obligation of a state
14 or a governmental subdivision, agency or instrumentality
15 thereof;

16 (5) receivables that are payable to a
17 licensee from its authorized delegates, in the ordinary
18 course of business, pursuant to contracts that are not more
19 than ten days past due or doubtful of collection if the
20 aggregate amount of receivables pursuant to this paragraph
21 does not exceed fifty percent of the total permissible
22 investments of a licensee and the licensee does not hold at
23 one time receivables pursuant to this paragraph in any one
24 person aggregating more than ten percent of the licensee's
25 total permissible investments; and

1 (6) a share or a certificate issued by an
2 open-end management investment company that is registered
3 with the United States securities and exchange commission
4 pursuant to the federal Investment Company Act of 1940 and
5 whose portfolio is restricted by the management company's
6 investment policy to investments specified in Paragraphs (1)
7 through (4) of this subsection.

8 B. The following investments are permissible
9 pursuant to Section 701 of the Uniform Money Services Act,
10 but only to the extent specified:

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

20 (2) a share of a person traded on a national
21 securities exchange or a national over-the-counter market or
22 a share or a certificate issued by an open-end management
23 investment company that is registered with the United States
24 securities and exchange commission pursuant to the federal
25 Investment Company Act of 1940 and whose portfolio is

1 restricted by the management company's investment policy to
2 shares of a person traded on a national securities exchange
3 or a national over-the-counter market, if the aggregate of
4 investments pursuant to this paragraph does not exceed twenty
5 percent of the total permissible investments of a licensee
6 and the licensee does not at one time hold investments in any
7 one person aggregating more than ten percent of the
8 licensee's total permissible investments;

9 (3) a demand-borrowing agreement made to a
10 corporation or a subsidiary of a corporation whose securities
11 are traded on a national securities exchange, if the
12 aggregate of the amount of principal and interest outstanding
13 pursuant to demand-borrowing agreements pursuant to this
14 paragraph does not exceed twenty percent of the total
15 permissible investments of a licensee and the licensee does
16 not at one time hold principal and interest outstanding
17 pursuant to demand-borrowing agreements pursuant to this
18 paragraph with any one person aggregating more than ten
19 percent of the licensee's total permissible investments; and

20 (4) any other investment the director
21 designates, to the extent specified by the director.

22 C. The aggregate of investments pursuant to
23 Subsection B of this section shall not exceed fifty percent
24 of the total permissible investments of a licensee calculated
25 in accordance with Section 701 of the Uniform Money Services

1 Act.

2 Article 8

3 ENFORCEMENT

4 SECTION 801. SUSPENSION AND REVOCATION--RECEIVERSHIP.--

5 A. The director may suspend or revoke a license,
6 place a licensee in receivership or order a licensee to
7 revoke the designation of an authorized delegate if:

8 (1) the licensee violates the Uniform Money
9 Services Act or a rule adopted or an order issued pursuant to
10 that act;

11 (2) the licensee does not cooperate with an
12 examination or investigation by the director;

13 (3) the licensee engages in fraud,
14 intentional misrepresentation or gross negligence;

15 (4) an authorized delegate is convicted of a
16 violation of a state or federal anti-money laundering
17 statute, or violates a rule adopted or an order issued
18 pursuant to the Uniform Money Services Act, as a result of
19 the licensee's willful misconduct or willful blindness;

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

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

3 (7) the licensee is insolvent, suspends
4 payment of its obligations or makes a general assignment for
5 the benefit of its creditors; or

6 (8) the licensee does not remove an
7 authorized delegate after the director issues and serves upon
8 the licensee a final order, including a finding that the
9 authorized delegate has violated the Uniform Money Services
10 Act.

11 B. In determining whether a licensee is engaging
12 in an unsafe or unsound practice, the director may consider
13 the size and condition of the licensee's money transmission,
14 the magnitude of the loss, the gravity of the violation of
15 the Uniform Money Services Act and the previous conduct of
16 the person involved.

17 **SECTION 802. SUSPENSION AND REVOCATION OF AUTHORIZED**
18 **DELEGATES.--**

19 A. The director may issue an order suspending or
20 revoking the designation of an authorized delegate if the
21 director finds that:

22 (1) the authorized delegate violated the
23 Uniform Money Services Act or a rule adopted or an order
24 issued pursuant to that act;

25 (2) the authorized delegate did not

1 cooperate with an examination or investigation by the
2 director;

3 (3) the authorized delegate engaged in
4 fraud, intentional misrepresentation or gross negligence;

5 (4) the authorized delegate is convicted of
6 a violation of a state or federal anti-money laundering
7 statute;

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

13 (6) the authorized delegate is engaging in
14 an unsafe or unsound practice.

15 B. In determining whether an authorized delegate
16 is engaging in an unsafe or unsound practice, the director
17 may consider the size and condition of the authorized
18 delegate's provision of money services, the magnitude of the
19 loss, the gravity of the violation of the Uniform Money
20 Services Act or a rule adopted or order issued pursuant to
21 that act and the previous conduct of the authorized delegate.

22 C. An authorized delegate may apply for relief
23 from a suspension or revocation of designation as an
24 authorized delegate according to procedures prescribed by the
25 director.

1 **SECTION 803. ORDERS TO CEASE AND DESIST.--**

2 A. If the director determines that a violation of
3 the Uniform Money Services Act, or of a rule adopted or an
4 order issued pursuant to that act, by a licensee or
5 authorized delegate is likely to cause immediate and
6 irreparable harm to the licensee, its customers or the public
7 as a result of the violation, or causes insolvency or
8 significant dissipation of assets of the licensee, the
9 director may issue an order requiring the licensee or
10 authorized delegate to cease and desist from the violation.
11 The order becomes effective upon service of it upon the
12 licensee or authorized delegate.

13 B. The director may issue an order against a
14 licensee to cease and desist from providing money services
15 through an authorized delegate that is the subject of a
16 separate order by the director.

17 C. An order to cease and desist remains effective
18 and enforceable pending the completion of an administrative
19 proceeding pursuant to Section 801 or 802 of the Uniform
20 Money Services Act.

21 D. A licensee or an authorized delegate that is
22 served with an order to cease and desist may petition the
23 district court for a judicial order setting aside, limiting
24 or suspending the enforcement, operation or effectiveness of
25 the order pending the completion of an administrative

1 proceeding pursuant to Section 801 or 802 of the Uniform
2 Money Services Act.

3 E. An order to cease and desist expires unless the
4 director commences an administrative proceeding pursuant to
5 Section 801 or 802 of the Uniform Money Services Act within
6 ten days after it is issued.

7 **SECTION 804. CONSENT ORDERS.--**The director may enter
8 into a consent order at any time with a person to resolve a
9 matter arising pursuant to the Uniform Money Services Act or
10 a rule adopted or order issued pursuant to that act. A
11 consent order shall be signed by the person to whom it is
12 issued or by the person's authorized representative and shall
13 indicate agreement with the terms contained in the order. A
14 consent order may provide that it does not constitute an
15 admission by a person that the Uniform Money Services Act or
16 a rule adopted or an order issued pursuant to that act has
17 been violated.

18 **SECTION 805. EMERGENCY ORDERS.--**

19 A. The director may issue an emergency order,
20 without prior notice and an opportunity for hearing, if the
21 director finds that:

22 (1) the action, violation or condition that
23 is the basis for the order:

24 (a) has caused or is likely to cause
25 the insolvency of the licensee;

1 (b) has caused or is likely to cause
2 the substantial dissipation of the licensee's assets or
3 earnings;

4 (c) has seriously weakened or is likely
5 to seriously weaken the condition of the licensee; or

6 (d) has seriously prejudiced or is
7 likely to seriously prejudice the interests of the licensee,
8 a purchaser of the licensee's money services or the public;
9 and

10 (2) immediate action is necessary to protect
11 the interests of the licensee, a purchaser of the licensee's
12 money services or the public.

13 B. In connection with and as directed by an
14 emergency order, the director may secure the records and
15 assets of a licensee or authorized delegate that relate to
16 the licensee's money services business.

17 C. An emergency order shall:

18 (1) state the grounds on which the order is
19 based;

20 (2) advise the person against whom the order
21 is directed that the order takes effect immediately, and, to
22 the extent applicable, require the person to immediately
23 cease and desist from the conduct or violation that is the
24 subject of the order or to take the affirmative action stated
25 in the order as necessary to correct a condition resulting

1 from the conduct or violation or as otherwise appropriate;

2 (3) be delivered by personal delivery or
3 sent by certified mail, return receipt requested, to the
4 person against whom the order is directed at the person's
5 last known address; and

6 (4) include a notice that a person may
7 request a hearing on the order by filing a written request
8 for a hearing with the director not later than the fifteenth
9 day after the date the order is delivered or mailed.

10 D. An emergency order takes effect as soon as the
11 order is served on the person against whom the order is
12 directed.

13 E. A licensee or authorized delegate against whom
14 an emergency order is directed must submit a written
15 certification to the director, signed by the licensee or
16 authorized delegate, and their principals and responsible
17 individuals, as applicable, and each person named in the
18 order, stating that each person has received a copy of and
19 has read and understands the order.

20 F. Unless the director receives a written request
21 for a hearing from a person against whom an emergency order
22 is directed not later than the fifteenth day after the date
23 the order is delivered or mailed, the order is final as to
24 that person on the sixteenth day after the date the order is
25 delivered or mailed.

1 G. A request for a hearing does not stay an
2 emergency order.

3 H. A hearing on an emergency order takes
4 precedence over any other matter pending before the director
5 and must be held not later than the tenth day after the date
6 the director receives the written request for hearing unless
7 a hearing officer extends the period for good cause or the
8 parties agree to a later hearing date.

9 I. A final emergency order may be appealed to the
10 district court as provided in Section 39-3-1.1 NMSA 1978.

11 **SECTION 806. CIVIL PENALTIES.--**The director may assess
12 a civil penalty against a person that violates the Uniform
13 Money Services Act or a rule adopted or an order issued
14 pursuant to that act in an amount not to exceed one thousand
15 dollars (\$1,000) per day for each day the violation is
16 outstanding.

17 **SECTION 807. CRIMINAL PENALTIES.--**

18 A. A person who intentionally makes a false
19 statement, misrepresentation or false certification in a
20 record filed or required to be maintained pursuant to the
21 Uniform Money Services Act or who intentionally makes a false
22 entry or omits a material entry in such a record is guilty of
23 a fourth degree felony.

24 B. A person who knowingly engages in an activity
25 for which a license is required pursuant to the Uniform Money

1 Services Act without being licensed pursuant to that act and
2 who receives more than two thousand five hundred dollars
3 (\$2,500) in compensation within a thirty-day period from this
4 activity is guilty of a fourth degree felony.

5 C. A person who knowingly engages in an activity
6 for which a license is required pursuant to the Uniform Money
7 Services Act without being licensed pursuant to that act and
8 who receives two thousand five hundred dollars (\$2,500) or
9 less in compensation within a thirty-day period from this
10 activity is guilty of a misdemeanor.

11 **SECTION 808. UNLICENSED PERSONS.--**

12 A. If the director has reason to believe that a
13 person has violated or is violating Section 201, 301 or 401
14 of the Uniform Money Services Act, the director may issue an
15 order to show cause why an order to cease and desist should
16 not issue requiring that the person cease and desist from the
17 violation of Section 201, 301 or 401 of that act.

18 B. In an emergency, the director may petition the
19 district court for the issuance of a temporary restraining
20 order ex parte pursuant to the rules of civil procedure.

21 C. An order to cease and desist becomes effective
22 upon service of it upon the person.

23 D. An order to cease and desist remains effective
24 and enforceable pending the completion of an administrative
25 proceeding pursuant to Sections 901 and 902 of the Uniform

1 Money Services Act.

2 E. A person that is served with an order to cease
3 and desist for violating Section 201, 301 or 401 of the
4 Uniform Money Services Act may petition the district court
5 for a judicial order setting aside, limiting or suspending
6 the enforcement, operation or effectiveness of the order
7 pending the completion of an administrative proceeding
8 pursuant to Sections 901 and 902 of that act.

9 F. An order to cease and desist expires unless the
10 director commences an administrative proceeding within ten
11 days after it is issued.

12 Article 9

13 ADMINISTRATIVE PROCEDURES

14 SECTION 901. POWERS OF DIRECTOR.--

15 A. The director may act on the director's own
16 initiative or in response to complaints and may receive
17 complaints, take action to obtain voluntary compliance with
18 the Uniform Money Services Act, refer cases to the office of
19 the attorney general or any other state agency or agency of
20 another state or the United States and seek or provide
21 remedies as provided in the Uniform Money Services Act.

22 B. The director may investigate and examine, in
23 New Mexico or in any other state or country, by subpoena or
24 otherwise, the activities, books, accounts and records of a
25 person that provides or offers to provide money services, or

1 a person to which a licensee has delegated its obligations
2 pursuant to an agreement or the Uniform Money Services Act,
3 to determine compliance with the Uniform Money Services Act.
4 Information that identifies individuals who have agreements
5 with the licensee shall not be disclosed to the public. In
6 connection with the investigation, the director may:

7 (1) charge the person the reasonable
8 expenses necessarily incurred to conduct the examination; and

9 (2) require or permit a person to file a
10 statement under oath as to all the facts and circumstances of
11 a matter to be investigated.

12 C. The director may enter into cooperative
13 arrangements with other state agencies or agencies of another
14 state or of the United States, or the nationwide mortgage
15 licensing system and registry, and may exchange with any of
16 those entities information about a licensee, including
17 information obtained during an examination of the licensee.

18 D. The director may bring an action to enforce the
19 Uniform Money Services Act in New Mexico or in any other
20 state or country.

21 E. The director may recover the reasonable
22 expenses of enforcing the Uniform Money Services Act pursuant
23 to Article 8 of that act, including nongovernmental attorney
24 and expert witness fees based on the hours reasonably
25 expended and the hourly rates for attorneys and expert

1 C. protect the interests of purchasers of money
2 services and of the public;

3 D. protect against drug trafficking, terrorist
4 funding and money laundering, structuring or a related
5 financial crime; and

6 E. recover the cost of administering and enforcing
7 the Uniform Money Services Act and other applicable law by
8 imposing and collecting proportionate and equitable fees and
9 costs for notices, applications, examinations, investigations
10 and other actions required to achieve the purposes of that
11 act.

12 SECTION 1003. APPOINTMENT OF SECRETARY OF STATE AS
13 AGENT FOR SERVICE OF PROCESS--FORWARDING OF PROCESS--CONSENT
14 TO JURISDICTION.--

15 A. A licensee, an authorized delegate or a person
16 who knowingly engages in activities that are regulated by the
17 Uniform Money Services Act and require a license, with or
18 without filing an application or holding a license, is deemed
19 to have:

20 (1) consented to the jurisdiction of the
21 courts of this state over the licensee, authorized delegate
22 or person for all actions arising pursuant to the Uniform
23 Money Services Act;

24 (2) consented to the venue in New Mexico for
25 all actions arising pursuant to the Uniform Money Services

1 Act, as venue is provided pursuant to Chapter 38, Article 3
2 NMSA 1978, and to the convenient forum of the courts in any
3 such venue; and

4 (3) appointed the secretary of state as the
5 lawful agent of the licensee, authorized delegate or person
6 for the purpose of accepting service of process in all
7 actions arising pursuant to the Uniform Money Services Act.

8 B. Within three business days after service of
9 process upon the secretary of state, the secretary of state
10 shall transmit by certified mail copies of all lawful process
11 accepted by the secretary of state as an agent to that person
12 at the person's last known address. Service of process shall
13 be deemed complete three business days after the secretary of
14 state deposits the copies of the documents in the United
15 States mail.

16 C. The provisions of this section are cumulative
17 and do not diminish the provisions of any other law that:

18 (1) provide for the New Mexico courts to
19 have jurisdiction over a person;

20 (2) provide for venue in New Mexico of any
21 action; or

22 (3) provide for any other method of serving
23 process upon a person.

24 **SECTION 1004. MONEY SERVICES REGULATORY**

25 **FUND--CREATED--PURPOSE--APPROPRIATION.--**

1 A. The "money services regulatory fund" is created
2 as a nonreverting fund in the state treasury and shall be
3 administered by the financial institutions division of the
4 regulation and licensing department. The fund shall consist
5 of application, licensing, renewal, investigation and any
6 other fees received that are associated with the costs of
7 administering the Uniform Money Services Act and any money
8 that is appropriated or donated or that otherwise accrues to
9 the fund. Money in the fund shall be invested by the state
10 investment officer in the manner that land grant permanent
11 funds are invested pursuant to Chapter 6, Article 8 NMSA
12 1978. Income from investment of the fund shall be credited
13 to the fund.

14 B. Money in the money services regulatory fund is
15 subject to appropriation by the legislature to the financial
16 institutions division of the regulation and licensing
17 department to carry out the provisions of the Uniform Money
18 Services Act.

19 C. Money shall be disbursed from the money
20 services regulatory fund only on warrant of the secretary of
21 finance and administration upon vouchers signed by the
22 director of the financial institutions division or the
23 director's authorized representative. Any unexpended or
24 unencumbered balance remaining at the end of a fiscal year
25 shall not revert to the general fund.

1 **SECTION 1005. TEMPORARY PROVISION--LICENSEE**
2 TRANSITION.--The director of the financial institutions
3 division of the regulation and licensing department shall
4 promulgate such rules as are necessary to transition
5 licensees pursuant to Section 58-20-1 NMSA 1978 to the
6 licensing provisions of the Uniform Money Services Act.

7 **SECTION 1006. DELAYED REPEAL.--**Section 58-20-1 NMSA
8 1978 (being Laws 1965, Chapter 293, Section 1, as amended) is
9 repealed effective July 1, 2017.

10 **SECTION 1007. EFFECTIVE DATE.--**The effective date of
11 the provisions of this act is January 1, 2017. _____

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