

1 SENATE BILL 473

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Daniel A. Ivey-Soto and Zachary J. Cook

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10 AN ACT

11 RELATING TO FINANCIAL INSTITUTIONS; ENACTING THE UNIFORM MONEY
12 SERVICES ACT; MAKING AN APPROPRIATION.

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

15 Article 1

16 GENERAL PROVISIONS

17 SECTION 101. [NEW MATERIAL] SHORT TITLE.--This act may be
18 cited as the "Uniform Money Services Act".

19 SECTION 102. [NEW MATERIAL] DEFINITIONS.--As used in the
20 Uniform Money Services Act:

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

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

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1 licensee;

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

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

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

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

20 E. "control" means:

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

25 (2) the power to elect, appoint, choose or

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1 otherwise designate, directly or indirectly, a majority of
2 executive officers, managers, directors, trustees or other
3 persons exercising managerial authority of a licensee or person
4 in control of a licensee; or

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

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

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

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

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

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

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

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1 L. "limited station" means private premises where a
2 check casher is authorized to engage in check cashing solely
3 for the employees of the particular employer or group of
4 employers specified in the check casher's license 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, check
15 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 not
19 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 by
23 the conference of state bank supervisors and the American
24 association of residential mortgage regulators pursuant to the
25 federal Secure and Fair Enforcement for Mortgage Licensing Act

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1 of 2008 to manage mortgage licenses and other financial
2 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, money
7 order, traveler's check or other instrument for the
8 transmission or payment of money or monetary value, whether or
9 not negotiable. "Payment instrument" does not include a credit
10 card voucher, letter of credit or instrument that is redeemable
11 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 information
18 that is inscribed on a tangible medium or that is stored in an
19 electronic or other medium and is retrievable in perceivable
20 form;

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

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

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1 authenticate or adopt a record:

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

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

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

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

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

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

20 SECTION 103. [NEW MATERIAL] EXCLUSIONS.--The Uniform
21 Money Services Act does not apply to:

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

24 B. money transmission by the United States postal
25 service or by a contractor on behalf of the United States

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1 postal service;

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

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

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

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

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

22 H. a person that provides clearance or settlement
23 services pursuant to a registration as a clearing agency or an
24 exemption from such registration granted under the federal
25 securities laws to the extent of its operation as such a

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1 provider;

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

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

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

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

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

23 Article 2

24 MONEY TRANSMISSION LICENSES

25 SECTION 201. [NEW MATERIAL] LICENSE REQUIRED.--

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

4 (1) is licensed pursuant to Article 2 of the
5 Uniform Money Services Act or approved to engage in money
6 transmission pursuant to Section 203 of that 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. [NEW MATERIAL] 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 form
16 and in a medium required by the director. Each form shall
17 contain content as set forth by rule, instruction or procedure
18 of the director. The form shall include the following
19 information:

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

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

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1 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 the
7 applicant and its authorized delegates propose to engage in
8 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 licensee;

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 will
22 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

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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 or
5 contracts with the nationwide mortgage licensing system and
6 registry or other entities designated by the nationwide
7 mortgage licensing system and registry to collect and maintain
8 records and process transaction fees or other fees related to
9 licensee applicants or other individuals subject to that act.

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

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

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

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

25 D. If an applicant is a corporation, limited

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1 liability company, partnership or other entity, the applicant
2 shall also provide:

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

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

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

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

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

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

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1 submission of the application;

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

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

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

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

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

21 (10) if the applicant has a registered agent
22 in New Mexico, the name and address of the applicant's
23 registered agent in New Mexico; and

24 (11) any other information the director
25 reasonably requires with respect to the applicant.

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

8 F. The director may waive one or more requirements
9 of Subsection C or D of this section or permit an applicant to
10 submit other information in lieu of the required information.

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

18 **SECTION 203. [NEW MATERIAL] SECURITY.--**

19 A. Except as otherwise provided in Subsection B of
20 this section, a surety bond, letter of credit, or other similar
21 security acceptable to the director shall accompany an
22 application for a license pursuant to Article 2 of the Uniform
23 Money Services Act. Except as otherwise provided in
24 Subsections D and F of this section, the required security
25 shall be in the amount of three hundred thousand dollars

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1 (\$300,000) or an amount equal to one percent of the licensee's
2 total yearly dollar volume of money transmission business in
3 this state or the applicant's projected total volume of
4 business in this state for the first year of licensure,
5 whichever is greater, up to a maximum of two million dollars
6 (\$2,000,000).

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

12 C. The aggregate liability on a surety bond shall
13 not exceed the principal sum of the bond. A claimant against a
14 licensee may maintain an action on the bond or the director may
15 maintain an action on behalf of the claimant.

16 D. A surety bond shall cover claims for so long as
17 the director specifies, but for at least five years after the
18 licensee ceases to provide money services in New Mexico.
19 However, the director may permit the amount of security to be
20 reduced or eliminated before the expiration of that time to the
21 extent the amount of the licensee's payment instruments or
22 stored-value obligations outstanding in New Mexico is reduced.
23 The director may permit a licensee to substitute another form
24 of security acceptable to the director for the security
25 effective at the time the licensee ceases to provide money

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1 services in New Mexico.

2 E. In lieu of the security prescribed in this
3 section, an applicant for a license or a licensee may provide
4 security in form and substance and from an issuer prescribed by
5 the director.

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

11 SECTION 204. [NEW MATERIAL] ISSUANCE OF LICENSE.--

12 A. When an application is filed pursuant to Article
13 2 of the Uniform Money Services Act, the director shall
14 investigate the applicant's financial condition and
15 responsibility, financial and business experience, character
16 and general fitness. The director may conduct an on-site
17 investigation of the applicant, in New Mexico or in any other
18 state or country, the reasonable cost of which the applicant
19 shall pay. The director shall issue a license to an applicant
20 pursuant to Article 2 of the Uniform Money Services Act if the
21 director finds that all of the following conditions have been
22 fulfilled:

23 (1) the applicant has complied with Sections
24 202, 203 and 206 of the Uniform Money Services Act; and

25 (2) the financial condition and

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

7 B. When an application for an original license
8 pursuant to Article 2 of the Uniform Money Services Act is
9 complete, the director shall promptly notify the applicant in a
10 record of the date on which the application was determined to
11 be complete and:

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

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

16 (a) the application is deemed approved;

17 and

18 (b) the license takes effect as of the
19 first business day after expiration of the one-hundred-twenty-
20 day period.

21 C. The director may for good cause extend the
22 application period.

23 D. An applicant whose application is denied by the
24 director pursuant to Article 2 of the Uniform Money Services
25 Act may appeal the denial, within thirty days after receipt of

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1 the notice of the denial, and request a hearing.

2 SECTION 205. [NEW MATERIAL] RENEWAL OF LICENSE.--

3 A. A license issued pursuant to Article 2 of the
4 Uniform Money Services Act shall expire on December 31 each
5 year. A licensee pursuant to Article 2 of the Uniform Money
6 Services Act shall pay an annual renewal fee of one thousand
7 dollars (\$1,000) and twenty-five dollars (\$25.00) for each
8 authorized delegate before November 1 of each year or, if
9 November 1 is not a business day, on the next business day.

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

15 (1) a copy of the licensee's most recent
16 audited annual financial statement or, if the licensee is a
17 wholly owned subsidiary of another corporation, the most recent
18 audited consolidated annual financial statement of the parent
19 corporation or the licensee's most recent audited consolidated
20 annual financial statement;

21 (2) the number and monetary amount of payment
22 instruments and stored value sold by the licensee in New Mexico
23 that have not been included in a renewal report and the
24 monetary amount of payment instruments and stored value
25 currently outstanding;

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

5 (4) a list of the licensee's permissible
6 investments and a certification that the licensee continues to
7 maintain permissible investments according to the requirements
8 set forth in Sections 701 and 702 of the Uniform Money Services
9 Act;

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

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

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

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

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1 and

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

5 D. The director for good cause may grant an
6 extension of the renewal date.

7 SECTION 206. [NEW MATERIAL] NET WORTH.--A licensee
8 pursuant to Article 2 of the Uniform Money Services Act shall
9 maintain a net worth of at least the following amounts
10 determined in accordance with generally accepted accounting
11 principles:

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

15 B. for five or more locations of the licensee and
16 authorized delegates in New Mexico or for an internet-based
17 money services business, five hundred thousand dollars
18 (\$500,000).

19 Article 3

20 CHECK CASHING LICENSES

21 SECTION 301. [NEW MATERIAL] LICENSE REQUIRED.--

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

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

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

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

7 (4) 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 3 of the Uniform
11 Money Services Act is not transferable or assignable.

12 SECTION 302. [NEW MATERIAL] APPLICATION FOR LICENSE.--

13 A. A person applying for a license pursuant to
14 Article 3 of the Uniform Money Services Act shall apply in a
15 record signed under penalty of perjury that shall be in a form
16 and in a medium required by the director. Each form shall
17 contain content as set forth by rule, instruction or procedure
18 of the director. The form shall include the following
19 information:

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

24 (2) the location of the principal office of
25 the applicant;

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

5 (4) a description of the source of money and
6 credit to be used by the applicant to engage in check cashing
7 and currency exchange; and

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

12 B. In connection with an application for licensing
13 pursuant to Article 3 of the Uniform Money Services Act, the
14 applicant shall, at a minimum, furnish to the nationwide
15 mortgage licensing system and registry the following
16 information in a form and medium prescribed by the nationwide
17 mortgage licensing system and registry:

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

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

23 (a) an independent credit report; and

24 (b) information related to any
25 administrative, civil or criminal findings by any governmental

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1 jurisdiction.

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

7 SECTION 303. [NEW MATERIAL] ISSUANCE OF LICENSE.--

8 A. When an application is filed pursuant to Article
9 3 of the Uniform Money Services Act, the director shall
10 investigate the applicant's financial condition and
11 responsibility, financial and business experience, character
12 and general fitness. The director may conduct an on-site
13 investigation of the applicant, in New Mexico or in any other
14 state or country, the reasonable cost of which the applicant
15 shall pay. The director shall issue a license to an applicant
16 pursuant to Article 3 of the Uniform Money Services Act if the
17 director finds that all of the following conditions have been
18 fulfilled:

19 (1) the applicant has complied with Section
20 302 of the Uniform Money Services Act; and

21 (2) the financial condition and
22 responsibility, financial and business experience, competence,
23 character and general fitness of the applicant and the
24 competence, experience, character and general fitness of the
25 executive officers, managers, directors and persons in control

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1 of the applicant indicate that it is in the interest of the
2 public to permit the applicant to engage in check cashing.

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

8 (1) the director shall approve or deny the
9 application within one hundred twenty days after that date; or

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

12 (a) the application is deemed approved;
13 and

14 (b) the director shall issue the
15 license, pursuant to Article 3 of the Uniform Money Services
16 Act, to take effect as of the first business day after
17 expiration of the one-hundred-twenty-day period.

18 C. The director may for good cause extend the
19 application period.

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

24 **SECTION 304. [NEW MATERIAL] RENEWAL OF LICENSE.--**

25 A. A license issued pursuant to Article 3 of the
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1 Uniform Money Services Act shall expire on December 31 each
2 year. A licensee pursuant to Article 3 of the Uniform Money
3 Services Act shall pay an annual renewal fee of one thousand
4 dollars (\$1,000) before November 1 of each year or, if November
5 1 is not a business day, on the next business day.

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

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

15 (2) a list of the locations in New Mexico
16 where the licensee or an authorized delegate of the licensee
17 engages in check cashing or currency exchange, including
18 limited stations and mobile locations.

19 C. If a licensee does not file a renewal report or
20 pay its renewal fee by the renewal date or any extension of
21 time granted by the director, the director shall send the
22 licensee a notice of suspension. Unless the licensee files the
23 report and pays the renewal fee before expiration of ten days
24 after the notice is sent, the licensee's license is suspended
25 ten days after the director sends the notice of suspension.

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1 The suspension shall be lifted if, within twenty days after its
2 license is suspended, the licensee:

3 (1) files the report and pays the renewal fee;
4 and

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

8 D. The director for good cause may grant an
9 extension of the renewal date.

10 Article 4

11 CURRENCY EXCHANGE LICENSES

12 SECTION 401. [NEW MATERIAL] LICENSE REQUIRED.--

13 A. A person shall not engage in currency exchange
14 or advertise, solicit or hold itself out as providing currency
15 exchange for which the person receives revenues equal or
16 greater than five percent of total revenues unless the person:

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

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

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

23 (4) is an authorized delegate of a person
24 licensed pursuant to Article 2 of the Uniform Money Services
25 Act.

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

3 SECTION 402. [NEW MATERIAL] APPLICATION FOR LICENSE.--

4 A. A person applying for a license pursuant to
5 Article 4 of the Uniform Money Services Act shall apply in a
6 record signed under penalty of perjury that shall be in a form
7 and in a medium required by the director. Each form shall
8 contain content as set forth by rule, instruction or procedure
9 of the director. The form shall include the following
10 information:

11 (1) the legal name and residential and
12 business addresses of the applicant if the applicant is an
13 individual or, if the applicant is not an individual, the name
14 of each partner, executive officer, manager and director;

15 (2) the location of the principal office of
16 the applicant;

17 (3) complete addresses of other locations in
18 New Mexico where the applicant proposes to engage in currency
19 exchange or check cashing, including all limited stations and
20 mobile locations;

21 (4) a description of the source of money and
22 credit to be used by the applicant to engage in check cashing
23 and currency exchange; and

24 (5) other information the director reasonably
25 requires with respect to the applicant, but not more than the

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1 director may require pursuant to Article 2 of the Uniform Money
2 Services Act.

3 B. In connection with an application for licensing
4 pursuant to Article 4 of the Uniform Money Services Act, the
5 applicant shall, at a minimum, furnish to the nationwide
6 mortgage licensing system and registry the following
7 information in a form and medium prescribed by the nationwide
8 mortgage licensing system and registry:

9 (1) the applicant's history and experience;
10 and

11 (2) an authorization for the nationwide
12 mortgage licensing system and registry and the director to
13 obtain:

14 (a) an independent credit report; and

15 (b) information related to any
16 administrative, civil or criminal findings by any governmental
17 jurisdiction.

18 C. A nonrefundable application fee of two thousand
19 dollars (\$2,000) and a nonrefundable license fee of two
20 thousand dollars (\$2,000) shall accompany an application for a
21 license pursuant to Article 4 of the Uniform Money Services
22 Act.

23 SECTION 403. [NEW MATERIAL] ISSUANCE OF LICENSE.--

24 A. When an application is filed pursuant to Article
25 4 of the Uniform Money Services Act, the director shall

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1 investigate the applicant's financial condition and
2 responsibility, financial and business experience, character
3 and general fitness. The director may conduct an on-site
4 investigation of the applicant, in New Mexico or in any other
5 state or country, the reasonable cost of which the applicant
6 shall pay. The director shall issue a license to an applicant
7 pursuant to Article 4 of the Uniform Money Services Act if the
8 director finds that all of the following conditions have been
9 fulfilled:

10 (1) the applicant has complied with Section
11 402 of the Uniform Money Services Act; and

12 (2) the financial condition and
13 responsibility, financial and business experience, competence,
14 character and general fitness of the applicant and the
15 competence, experience, character and general fitness of the
16 executive officers, managers, directors and persons in control
17 of the applicant indicate that it is in the interest of the
18 public to permit the applicant to engage in currency exchange.

19 B. When an application for an original license
20 pursuant to Article 4 of the Uniform Money Services Act is
21 complete, the director shall promptly notify the applicant in a
22 record of the date on which the application was determined to
23 be complete and:

24 (1) the director shall approve or deny the
25 application within one hundred twenty days after that date; or

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

3 (a) the application is deemed approved;
4 and

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

9 C. The director may for good cause extend the
10 application period.

11 D. An applicant whose application is denied a
12 license by the director pursuant to Article 4 of the Uniform
13 Money Services Act may appeal the denial, within thirty days
14 after receipt of the notice of the denial, and request a
15 hearing.

16 SECTION 404. [NEW MATERIAL] RENEWAL OF LICENSE.--

17 A. A license issued pursuant to Article 4 of the
18 Uniform Money Services Act shall expire on December 31 each
19 year. A licensee pursuant to Article 4 of the Uniform Money
20 Services Act shall pay an annual renewal fee of one thousand
21 dollars (\$1,000) before November 1 of each year or, if November
22 1 is not a business day, on the next business day.

23 B. A licensee pursuant to Article 4 of the Uniform
24 Money Services Act shall submit a renewal report with the
25 renewal fee in a record signed under penalty of perjury that

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1 shall be in a form and in a medium prescribed by the director.

2 The renewal report shall state or contain:

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

7 (2) a list of the locations in New Mexico
8 where the licensee or an authorized delegate of the licensee
9 engages in currency exchange or check cashing, including
10 limited stations and mobile locations.

11 C. If a licensee does not file a renewal report and
12 pay its renewal fee by the renewal date or any extension of
13 time granted by the director, the director shall send the
14 licensee a notice of suspension. Unless the licensee files the
15 report and pays the renewal fee before expiration of ten days
16 after the notice is sent, the licensee's license is suspended
17 ten days after the director sends the notice of suspension.
18 The suspension shall be lifted if, within twenty days after its
19 license is suspended, the licensee:

20 (1) files the report and pays the renewal fee;
21 and

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

25 D. The director for good cause may grant an

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1 extension of the renewal date.

2 Article 5

3 AUTHORIZED DELEGATES

4 SECTION 501. [NEW MATERIAL] RELATIONSHIP BETWEEN LICENSEE
5 AND AUTHORIZED DELEGATE.--

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

7 (1) to make direct payments of money to a
8 licensee or its representative authorized to receive money; or

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

11 B. A contract between a licensee and an authorized
12 delegate shall require the authorized delegate to operate in
13 full compliance with the Uniform Money Services Act. The
14 licensee shall furnish in a record to each authorized delegate
15 policies and procedures sufficient for compliance with the
16 Uniform Money Services Act.

17 C. For each authorized delegate, the licensee shall
18 maintain records that demonstrate the licensee conducted a
19 reasonable background investigation of each authorized
20 delegate. A licensee shall preserve those records for at least
21 five years after the authorized delegate's most recent
22 designation by the licensee.

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

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1 E. If a license is suspended or revoked or a
2 licensee does not renew its license, the director shall notify
3 all authorized delegates of the licensee whose names are in a
4 record filed with the director of the suspension, revocation or
5 nonrenewal. After notice is sent or publication is made, an
6 authorized delegate shall immediately cease to provide money
7 services as a delegate of the licensee.

8 F. An authorized delegate shall not provide money
9 services outside the scope of activity permissible pursuant to
10 the contract between the authorized delegate and the licensee,
11 except activity in which the authorized delegate is authorized
12 to engage pursuant to Article 2, 3 or 4 of the Uniform Money
13 Services Act. An authorized delegate of a licensee holds in
14 trust for the benefit of the licensee all money net of fees
15 received from money transmission.

16 G. An authorized delegate shall not use a
17 subdelegate to conduct money services on behalf of a licensee.

18 H. Whenever a licensee first advises the director
19 of the identity of a proposed delegate, the licensee shall pay
20 a nonrefundable fee of twenty-five dollars (\$25.00) for each
21 proposed delegate.

22 **SECTION 502. [NEW MATERIAL] UNAUTHORIZED ACTIVITIES.--A**
23 person shall not provide money services on behalf of a person
24 not licensed pursuant to the Uniform Money Services Act. A
25 person that engages in that activity provides money services to

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1 the same extent as if the person were a licensee.

2 Article 6

3 EXAMINATIONS; REPORTS; RECORDS

4 SECTION 601. [NEW MATERIAL] AUTHORITY TO CONDUCT
5 EXAMINATIONS.--

6 A. The director may conduct an annual examination
7 of a licensee or of any of its authorized delegates upon forty-
8 five days' notice in a record to the licensee.

9 B. The director may examine a licensee or its
10 authorized delegate at any time, without notice, if the
11 director has reason to believe that the licensee or authorized
12 delegate is engaging in an unsafe or unsound practice or has
13 violated or is violating the Uniform Money Services Act or a
14 rule adopted or an order issued pursuant to that act.

15 C. If the director concludes that an on-site
16 examination is necessary pursuant to Subsection A of this
17 section, in New Mexico or in any other state or country, the
18 licensee shall pay the reasonable cost of the examination.

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

22 SECTION 602. [NEW MATERIAL] COOPERATION.--The director
23 may consult and cooperate with other state agencies, agencies
24 of another state or of the United States or the nationwide
25 mortgage licensing system and registry in enforcing and

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1 administering the Uniform Money Services Act. They may jointly
2 pursue examinations and take other official action that they
3 are otherwise empowered to take.

4 SECTION 603. [NEW MATERIAL] REPORTS.--

5 A. A licensee shall file with the director a record
6 signed under penalty of perjury that shall be in a form and in
7 a medium prescribed by the director and that shall contain any
8 material change in information provided in the licensee's
9 application or the information provided by the licensee to the
10 nationwide mortgage licensing system and registry. The record
11 shall be filed within fifteen business days after the licensee
12 has reason to know of the change.

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

22 C. A licensee shall file a report with the director
23 within one business day after the licensee has reason to know
24 of the occurrence of any of the following events:

- 25 (1) the filing of a petition by or against the

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1 licensee pursuant to the United States Bankruptcy Code for
2 bankruptcy or reorganization;

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

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

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

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

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

18 D. The report required pursuant to Subsection C of
19 this section shall be a record signed under penalty of perjury
20 and in a form and in a medium prescribed by the director and
21 shall describe the event requiring the report.

22 SECTION 604. [NEW MATERIAL] CHANGE OF CONTROL.--

23 A. A licensee shall:

24 (1) give the director notice in a record
25 signed under penalty of perjury in a form and in a medium

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1 prescribed by the director of a proposed change of control
2 within fifteen days after learning of the proposed change of
3 control;

4 (2) request approval by the director of the
5 proposed change of control; and

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

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

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

25 D. When an application for a change of control

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1 pursuant to Article 6 of the Uniform Money Services Act is
2 complete, the director shall notify the licensee in a record of
3 the date on which the request was determined to be complete
4 and:

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

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

9 (a) the request is deemed approved; and

10 (b) the director shall permit the change
11 of control, pursuant to this section, to take effect as of the
12 first business day after expiration of the one-hundred-twenty-
13 day period.

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

18 F. Subsection A of this section does not apply to a
19 public offering of securities.

20 G. Before filing a request for approval to acquire
21 control of a licensee or person in control of a licensee, a
22 person may request in a record a determination from the
23 director as to whether the person would be considered a person
24 in control of a licensee upon consummation of a proposed
25 transaction. If the director determines that the person would

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1 not be a person in control of a licensee, the director shall
2 enter an order to that effect and the proposed person and
3 transaction is not subject to the requirements of Subsections A
4 through C of this section.

5 SECTION 605. [NEW MATERIAL] RECORDS.--

6 A. A licensee shall maintain the following records
7 for determining its compliance with the Uniform Money Services
8 Act for at least three years:

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

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

14 (3) bank statements and bank reconciliation
15 records;

16 (4) records of outstanding payment instruments
17 and stored-value obligations;

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

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

22 (7) any other records the director reasonably
23 requires by rule.

24 B. The items specified in Subsection A of this
25 section may be maintained in writing, electronically or in any

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1 other form of record that is permitted by the director.

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

5 D. All records maintained by the licensee as
6 required in Subsections A through C of this section are open to
7 inspection by the director pursuant to Section 601 of the
8 Uniform Money Services Act.

9 SECTION 606. [NEW MATERIAL] MONEY LAUNDERING REPORTS.--

10 A. A licensee and an authorized delegate shall file
11 with the New Mexico attorney general all reports required by
12 federal currency reporting, recordkeeping and suspicious
13 transaction reporting requirements as set forth in 31 U.S.C.
14 Section 5311 (1994) and other federal and state laws pertaining
15 to money laundering.

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

24 C. In connection with each transaction that
25 involves transmitting money in an amount of one thousand

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1 dollars (\$1,000) or more, whether sending or receiving, a
2 licensee or, for a transaction conducted through an authorized
3 delegate, an authorized delegate, shall retain a record of each
4 of the following:

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

9 (2) the type and number of the customer's
10 verified photographic identification as described in 31 Code of
11 Federal Regulations Section 1010.312;

12 (3) the customer's current occupation;

13 (4) the customer's current residential
14 address; and

15 (5) the customer's signature.

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

19 (1) a commercial creditor pursuant to a
20 contract between the licensee and the commercial creditor; or

21 (2) a utility company.

22 SECTION 607. [NEW MATERIAL] CONFIDENTIALITY.--

23 A. Except as otherwise provided in Subsection B of
24 this section, all information or reports obtained by the
25 director from an applicant, licensee or authorized delegate and

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1 all information contained in or related to examination,
2 investigation, operating or condition reports prepared by, on
3 behalf of or for the use of the director, or financial
4 statements, balance sheets or authorized delegate information,
5 are confidential and are not subject to disclosure pursuant to
6 the Public Records Act or any similar law.

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

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

22 Article 7

23 PERMISSIBLE INVESTMENTS

24 SECTION 701. [NEW MATERIAL] MAINTENANCE OF PERMISSIBLE
25 INVESTMENTS.--

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1 A. A licensee shall maintain at all times
2 permissible investments that have a market value computed in
3 accordance with generally accepted accounting principles of not
4 less than the aggregate amount of all of its outstanding
5 payment instruments and stored-value obligations issued or sold
6 in all states and money transmitted from all states by the
7 licensee.

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

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

21 **SECTION 702. [NEW MATERIAL] TYPES OF PERMISSIBLE**
22 **INVESTMENTS.--**

23 A. Except to the extent otherwise limited by the
24 director pursuant to Section 701 of the Uniform Money Services
25 Act, the following investments are permissible pursuant to

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1 Section 701 of that act:

2 (1) cash, a certificate of deposit or senior
3 debt obligation of an insured depository institution as defined
4 in Section 3 of the Federal Deposit Insurance Act;

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

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

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

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

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1 of the licensee's total permissible investments; and

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

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

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

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

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1 Investment Company Act of 1940 and whose portfolio is
2 restricted by the management company's investment policy to
3 shares of a person traded on a national securities exchange or
4 a national over-the-counter market, if the aggregate of
5 investments pursuant to this paragraph does not exceed twenty
6 percent of the total permissible investments of a licensee and
7 the licensee does not at one time hold investments in any one
8 person aggregating more than ten percent of the licensee's
9 total permissible investments;

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

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

23 C. The aggregate of investments pursuant to
24 Subsection B of this section shall not exceed fifty percent of
25 the total permissible investments of a licensee calculated in

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1 accordance with Section 701 of the Uniform Money Services Act.

2 Article 8

3 ENFORCEMENT

4 SECTION 801. [NEW MATERIAL] SUSPENSION AND REVOCATION--
5 RECEIVERSHIP.--

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

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

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

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

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

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

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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 authorized
7 delegate after the director issues and serves upon the licensee
8 a final order, including a finding that the authorized delegate
9 has violated the Uniform Money Services Act.

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

16 SECTION 802. [NEW MATERIAL] SUSPENSION AND REVOCATION OF
17 AUTHORIZED DELEGATES.--

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

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

24 (2) the authorized delegate did not cooperate
25 with an examination or investigation by the director;

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

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

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

10 (6) the authorized delegate is engaging in an
11 unsafe or unsound practice.

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

19 C. An authorized delegate may apply for relief from
20 a suspension or revocation of designation as an authorized
21 delegate according to procedures prescribed by the director.

22 SECTION 803. [NEW MATERIAL] ORDERS TO CEASE AND DESIST.--

23 A. If the director determines that a violation of
24 the Uniform Money Services Act, or of a rule adopted or an
25 order issued pursuant to that act, by a licensee or authorized

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1 delegate is likely to cause immediate and irreparable harm to
2 the licensee, its customers or the public as a result of the
3 violation, or causes insolvency or significant dissipation of
4 assets of the licensee, the director may issue an order
5 requiring the licensee or authorized delegate to cease and
6 desist from the violation. The order becomes effective upon
7 service of it upon the licensee or authorized delegate.

8 B. The director may issue an order against a
9 licensee to cease and desist from providing money services
10 through an authorized delegate that is the subject of a
11 separate order by the director.

12 C. An order to cease and desist remains effective
13 and enforceable pending the completion of an administrative
14 proceeding pursuant to Section 801 or 802 of the Uniform Money
15 Services Act.

16 D. A licensee or an authorized delegate that is
17 served with an order to cease and desist may petition the
18 district court for a judicial order setting aside, limiting or
19 suspending the enforcement, operation or effectiveness of the
20 order pending the completion of an administrative proceeding
21 pursuant to Section 801 or 802 of the Uniform Money Services
22 Act.

23 E. An order to cease and desist expires unless the
24 director commences an administrative proceeding pursuant to
25 Section 801 or 802 of the Uniform Money Services Act within ten

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1 days after it is issued.

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

13 SECTION 805. [NEW MATERIAL] EMERGENCY ORDERS.--

14 A. The director may issue an emergency order,
15 without prior notice and an opportunity for hearing, if the
16 director finds that:

17 (1) the action, violation or condition that is
18 the basis for the order:

19 (a) has caused or is likely to cause the
20 insolvency of the licensee;

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

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

25 (d) has seriously prejudiced or is

1 likely to seriously prejudice the interests of the licensee, a
2 purchaser of the licensee's money services or the public; and

3 (2) immediate action is necessary to protect
4 the interests of the licensee, a purchaser of the licensee's
5 money services or the public.

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

10 C. An emergency order shall:

11 (1) state the grounds on which the order is
12 based;

13 (2) advise the person against whom the order
14 is directed that the order takes effect immediately, and, to
15 the extent applicable, require the person to immediately cease
16 and desist from the conduct or violation that is the subject of
17 the order or to take the affirmative action stated in the order
18 as necessary to correct a condition resulting from the conduct
19 or violation or as otherwise appropriate;

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

24 (4) include a notice that a person may request
25 a hearing on the order by filing a written request for a

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1 hearing with the director not later than the fifteenth day
2 after the date the order is delivered or mailed.

3 D. An emergency order takes effect as soon as the
4 order is served on the person against whom the order is
5 directed.

6 E. A licensee or authorized delegate against whom
7 an emergency order is directed must submit a written
8 certification to the director, signed by the licensee or
9 authorized delegate, and their principals and responsible
10 individuals, as applicable, and each person named in the order,
11 stating that each person has received a copy of and has read
12 and understands the order.

13 F. Unless the director receives a written request
14 for a hearing from a person against whom an emergency order is
15 directed not later than the fifteenth day after the date the
16 order is delivered or mailed, the order is final as to that
17 person on the sixteenth day after the date the order is
18 delivered or mailed.

19 G. A request for a hearing does not stay an
20 emergency order.

21 H. A hearing on an emergency order takes precedence
22 over any other matter pending before the director and must be
23 held not later than the tenth day after the date the director
24 receives the written request for hearing unless a hearing
25 officer extends the period for good cause or the parties agree

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1 to a later hearing date.

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

4 SECTION 806. [NEW MATERIAL] CIVIL PENALTIES.--The
5 director may assess a civil penalty against a person that
6 violates the Uniform Money Services Act or a rule adopted or an
7 order issued pursuant to that act in an amount not to exceed
8 one thousand dollars (\$1,000) per day for each day the
9 violation is outstanding.

10 SECTION 807. [NEW MATERIAL] CRIMINAL PENALTIES.--

11 A. A person that intentionally makes a false
12 statement, misrepresentation or false certification in a record
13 filed or required to be maintained pursuant to the Uniform
14 Money Services Act or that intentionally makes a false entry or
15 omits a material entry in such a record is guilty of a fourth
16 degree felony.

17 B. A person that knowingly engages in an activity
18 for which a license is required pursuant to the Uniform Money
19 Services Act without being licensed pursuant to that act and
20 who receives more than two thousand five hundred dollars
21 (\$2,500) in compensation within a thirty-day period from this
22 activity is guilty of a fourth degree felony.

23 C. A person that knowingly engages in an activity
24 for which a license is required pursuant to the Uniform Money
25 Services Act without being licensed pursuant to that act and

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1 who receives two thousand five hundred dollars (\$2,500) or less
2 in compensation within a thirty-day period from this activity
3 is guilty of a misdemeanor.

4 SECTION 808. [NEW MATERIAL] UNLICENSED PERSONS.--

5 A. If the director has reason to believe that a
6 person has violated or is violating Section 201, 301 or 401 of
7 the Uniform Money Services Act, the director may issue an order
8 to show cause why an order to cease and desist should not issue
9 requiring that the person cease and desist from the violation
10 of Section 201, 301 or 401 of that act.

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

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

16 D. An order to cease and desist remains effective
17 and enforceable pending the completion of an administrative
18 proceeding pursuant to Sections 901 and 902 of the Uniform
19 Money Services Act.

20 E. A person that is served with an order to cease
21 and desist for violating Section 201, 301 or 401 of the Uniform
22 Money Services Act may petition the district court for a
23 judicial order setting aside, limiting or suspending the
24 enforcement, operation or effectiveness of the order pending
25 the completion of an administrative proceeding pursuant to

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1 Sections 901 and 902 of that act.

2 F. An order to cease and desist expires unless the
3 director commences an administrative proceeding within ten days
4 after it is issued.

5 Article 9

6 ADMINISTRATIVE PROCEDURES

7 SECTION 901. [NEW MATERIAL] POWERS OF DIRECTOR.--

8 A. The director may act on the director's own
9 initiative or in response to complaints and may receive
10 complaints, take action to obtain voluntary compliance with the
11 Uniform Money Services Act, refer cases to the office of the
12 attorney general or any other state agency or agency of another
13 state or the United States and seek or provide remedies as
14 provided in the Uniform Money Services Act.

15 B. The director may investigate and examine, in New
16 Mexico or in any other state or country, by subpoena or
17 otherwise, the activities, books, accounts and records of a
18 person that provides or offers to provide money services, or a
19 person to which a licensee has delegated its obligations
20 pursuant to an agreement or the Uniform Money Services Act, to
21 determine compliance with the Uniform Money Services Act.
22 Information that identifies individuals who have agreements
23 with the licensee shall not be disclosed to the public. In
24 connection with the investigation, the director may:

- 25 (1) charge the person the reasonable expenses

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1 necessarily incurred to conduct the examination; and

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

5 C. The director may enter into cooperative
6 arrangements with other state agencies or agencies of another
7 state or of the United States, or the nationwide mortgage
8 licensing system and registry, and may exchange with any of
9 those entities information about a licensee, including
10 information obtained during an examination of the licensee.

11 D. The director may bring an action to enforce the
12 Uniform Money Services Act in New Mexico or in any other state
13 or country.

14 E. The director may recover the reasonable expenses
15 of enforcing the Uniform Money Services Act pursuant to Article
16 8 of that act, including nongovernmental attorney and expert
17 witness fees based on the hours reasonably expended and the
18 hourly rates for attorneys and expert witnesses of comparable
19 experience in the community.

20 SECTION 902. [NEW MATERIAL] HEARINGS.--Except as
21 otherwise provided in Subsection C of Section 205, Subsection C
22 of Section 304, Subsection C of Section 404 and Sections 803,
23 805 and 808 of the Uniform Money Services Act, the director
24 shall not suspend or revoke a license, place a licensee in
25 receivership, issue an order to cease and desist, suspend or

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1 revoke the designation of an authorized delegate or assess a
2 civil penalty without notice and an opportunity to be heard.
3 The director shall also hold a hearing when requested to do so
4 by an applicant whose application for a license is denied.

5 Article 10

6 MISCELLANEOUS PROVISIONS

7 SECTION 1001. [NEW MATERIAL] UNIFORMITY OF APPLICATION
8 AND CONSTRUCTION.--In applying and construing the Uniform Money
9 Services Act, consideration shall be given to the need to
10 promote uniformity of the law with respect to its subject
11 matter among states that enact it.

12 SECTION 1002. [NEW MATERIAL] RULES.--The director may
13 promulgate rules to administer and enforce the Uniform Money
14 Services Act, including rules necessary or appropriate to:
15 A. implement and clarify the Uniform Money Services
16 Act;
17 B. preserve and protect the safety and soundness of
18 money services businesses;
19 C. protect the interests of purchasers of money
20 services and of the public;
21 D. protect against drug trafficking, terrorist
22 funding and money laundering, structuring or a related
23 financial crime; and
24 E. recover the cost of administering and enforcing
25 the Uniform Money Services Act and other applicable law by

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1 imposing and collecting proportionate and equitable fees and
2 costs for notices, applications, examinations, investigations
3 and other actions required to achieve the purposes of that act.

4 SECTION 1003. [NEW MATERIAL] UNIQUE IDENTIFIER.--The
5 unique identifier of any person engaged in money services shall
6 be clearly shown on all customer correspondence, solicitations
7 or advertisements, including business cards or web sites, and
8 on any other documents as established by rule or order of the
9 director.

10 SECTION 1004. [NEW MATERIAL] APPOINTMENT OF SECRETARY OF
11 STATE AS AGENT FOR SERVICE OF PROCESS--FORWARDING OF PROCESS--
12 CONSENT TO JURISDICTION.--

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

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

22 (2) consented to the venue in New Mexico for
23 all actions arising pursuant to the Uniform Money Services Act,
24 as venue is provided pursuant to Chapter 38, Article 3 NMSA
25 1978, and to the convenient forum of the courts in any such

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1 venue; and

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

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

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

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

18 (2) provide for venue in New Mexico of any
19 action; or

20 (3) provide for any other method of serving
21 process upon a person.

22 SECTION 1005. [NEW MATERIAL] MONEY SERVICES REGULATORY
23 FUND--CREATED--PURPOSE--APPROPRIATION.--

24 A. The "money services regulatory fund" is created
25 as a nonreverting fund in the state treasury and shall be

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

12 B. Money in the money services regulatory fund is
13 appropriated to the financial institutions division of the
14 regulation and licensing department to carry out the provisions
15 of the Uniform Money Services Act.

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

23 SECTION 1006. EFFECTIVE DATE.--The effective date of the
24 provisions of this act is January 1, 2016.