

First Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 17-0226.01 Thomas Morris x4218

SENATE BILL 17-226

SENATE SPONSORSHIP

Kagan, Cooke, Gardner, Guzman, Holbert

HOUSE SPONSORSHIP

Foote, Herod, Lee, Willett, Wist

Senate Committees

Judiciary

House Committees

A BILL FOR AN ACT

101 CONCERNING THE NONSUBSTANTIVE RELOCATION OF LAWS RELATED
102 TO THE REGULATION OF FINANCIAL INSTITUTIONS FROM TITLE
103 12, COLORADO REVISED STATUTES, AS PART OF THE
104 ORGANIZATIONAL RECODIFICATION OF TITLE 12.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Committee on Legal Services. Current law directs the Office of Legislative Legal Services to study the organizational recodification of title 12, Colorado Revised Statutes, which relates to professions and

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

occupations. To implement the initial recommendations of the study, the bill relocates the following laws:

- ! Article 13 of title 12, pursuant to which the commissioner of financial services and the financial services board regulate life care institutions, to article 49 of title 11 (**section 1** of the bill); and
- ! Article 52 of title 12, pursuant to which the banking board and the state bank commissioner regulate money transmitters, to article 110 of title 11 (**sections 2 and 3**).

Section 13 repeals the articles where these laws were previously codified, and **sections 5 through 12** make conforming amendments.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add with amended**
3 **and relocated provisions** article 49 to title 11 as follows:

4 **ARTICLE 49**

5 **Life Care Institutions**

6 **11-49-101. [Formerly 12-13-101] Definitions.** As used in this
7 ~~article~~ ARTICLE 49, unless the context otherwise requires:

8 (1) "Aged person" means any person sixty-two years of age or
9 older.

10 ~~(1.5)~~ (2) "Board" means the financial services board created in
11 section 11-44-101.6. ~~C.R.S.~~

12 ~~(2)~~ (3) "Commissioner" means the state commissioner of financial
13 services, serving in accordance with section 11-44-102. ~~C.R.S.~~

14 ~~(3)~~ (4) "Entrance fee" means the total of any initial or deferred
15 transfer to or for the benefit of a provider of a sum of money or other
16 property made or promised to be made as full or partial consideration for
17 the acceptance or maintenance of a specified individual as a resident in
18 a facility.

19 ~~(4)~~ (5) "Facility" means the place in which a provider undertakes

1 to provide life care to a resident.

2 ~~(5)~~ (6) "Life care" means care provided, pursuant to a life care
3 contract, for the life of an aged person, including but not limited to
4 services such as health care, medical services, board, lodging, or other
5 necessities.

6 ~~(6)~~ (7) "Life care contract" means a written contract to provide life
7 care to a person for the duration of ~~such~~ THE person's life conditioned
8 upon the transfer of an entrance fee to the provider of ~~such~~ THE services
9 in addition to or in lieu of the payment of regular periodic charges for the
10 care and services involved. Any life care contract payable to or for the
11 provider in four or more installments shall be subject to the provisions of
12 the "Uniform Consumer Credit Code", articles 1 to 9 of title 5. ~~C.R.S.~~

13 ~~(7)~~ (8) "Living unit" means a room, apartment, or other area
14 within a facility set aside for the exclusive use or control of one or more
15 identified residents.

16 ~~(8)~~ (9) "Person" means all corporations, associations, partnerships,
17 or individuals, including fraternal or benevolent orders or societies.

18 ~~(9)~~ (10) "Provider" means a person who undertakes to provide
19 services in a facility pursuant to a life care contract.

20 ~~(10)~~ (11) "Resident" means any person entitled pursuant to a life
21 care contract to receive life care in a facility.

22 ~~(11)~~ (12) "Third-party service providers" means any person, other
23 than a provider, who is the holder of a management contract with a
24 provider or who contracts with a provider to provide life care services to
25 residents.

26 **11-49-102. [Formerly 12-13-104] Escrow account for entrance**
27 **fees.** (1) Each provider shall establish an escrow account ~~which~~ THAT

1 provides that all of any entrance fee received by the provider prior to the
2 date the resident is permitted to occupy his or her living unit in the facility
3 be placed in escrow with a bank, trust company, or other licensed
4 corporate escrow agent located in Colorado and approved by the
5 commissioner, subject to the condition that ~~such~~ THE funds may be
6 released only as follows:

7 (a) If the entrance fee applies to a living unit ~~which~~ THAT has been
8 previously occupied in the facility, the entrance fee shall be released to
9 the provider at such time as the living unit becomes available for
10 occupancy by the new resident and is in compliance with local
11 government regulations applicable to living units, as certified by the
12 provider.

13 (b) If the entrance fee applies to a living unit ~~which~~ THAT has not
14 previously been occupied by any resident, the entrance fee shall be
15 released to the provider at such time as the commissioner is satisfied that
16 all of the following conditions exist:

17 (I) Construction or purchase of the facility has been substantially
18 completed, and an occupancy permit covering the living unit has been
19 issued by the local government having authority to issue ~~such~~ THE
20 permits;

21 (II) A commitment has been received by the provider for any
22 permanent mortgage loan or other long-term financing described in the
23 statement of anticipated source and application of funds submitted by the
24 provider and any conditions of the commitment prior to disbursement of
25 funds thereunder have been substantially satisfied;

26 (III) Aggregate entrance fees received or receivable by the
27 provider pursuant to binding life care contracts, plus the anticipated

1 proceeds of any first mortgage loan or other long-term financing
2 commitment, are equal to not less than ninety percent of the aggregate
3 cost of constructing, equipping, and furnishing, or purchasing the facility
4 and not less than ninety percent of the funds estimated in the statement of
5 anticipated source and application of funds submitted by the provider to
6 be necessary to fund start-up losses and assure full performance of the
7 obligations of the provider pursuant to life care contracts.

8 (2) If the funds in an escrow account required to be established
9 under subsection (1) of this section are not released within such time as
10 provided by rules ~~and regulations~~ issued by the commissioner, then ~~such~~
11 THE funds shall be returned by the escrow agent to the persons who had
12 made payment to the provider.

13 (3) An entrance fee held in escrow may be returned by the escrow
14 agent to the person or persons who had made payment to the provider at
15 any time upon receipt by the escrow agent of notice from the provider that
16 ~~such~~ THE person is entitled to a refund of the entrance fee.

17 (4) Nothing in this section shall be interpreted as requiring the
18 escrow of any nonrefundable application fee designated as such in the life
19 care contract received by the provider from a prospective resident.

20 **11-49-103. [Formerly 12-13-105] Withdrawal or dismissal of**
21 **person - refund.** (1) If the agreement permits withdrawal or dismissal
22 of the resident from the life care institution prior to the expiration of the
23 agreement, with or without cause, an amount equal to the difference
24 between the amount paid in and the amount used for the care of the
25 resident during the time he OR SHE remained in the institution, based upon
26 the per capita cost to the institution as determined in a manner acceptable
27 to the commissioner, shall be refunded to the resident; but in cases where

1 a consideration greater than the minimum charge has been paid for
2 accommodations above standard, a sum equal to the difference between
3 the amount paid in and the ratio of the amount paid to the minimum
4 consideration for standard accommodations times the current per capita
5 cost to the institution applied to the period the resident remained in the
6 institution shall be refunded to the resident. If the per capita cost to the
7 institution during the period cannot be established otherwise, the cost
8 during the period shall be deemed to be the cost at the time of the
9 withdrawal or dismissal. For refund purposes "cost" shall include a
10 reasonable profit to the provider.

11 (2) If the provider is an organization described in section 501
12 (c)(3) of the federal "Internal Revenue Code of 1986", as amended, and
13 exempt from income taxation under section 501 (a) of the federal
14 "Internal Revenue Code of 1986", as amended, it shall be entitled to make
15 A refund according to a schedule provided in its agreement with the
16 resident so long as ~~such~~ THE schedule provides for amortization of the
17 amount paid by ~~such~~ THE resident over a period of not less than sixty
18 months or over the life expectancy of the resident if ~~such~~ THE expectancy
19 is less than sixty months. In such case, the refund may be delayed for a
20 reasonable period thereafter until the securing by the provider of a
21 substitute fee from another resident or prospective resident. The provider
22 may also deduct from any such refund amounts due it from the resident
23 for damage done or for any other legitimate offsetting item.

24 **11-49-104. [Formerly 12-13-106] Recording of lien by**
25 **commissioner.** (1) The commissioner shall record with the county clerk
26 and recorder of any county a notice of lien on behalf of all residents who
27 enter into life care contracts with a provider to secure performance of the

1 provider's obligations to residents pursuant to life care contracts. All
2 reasonable costs of recording ~~such~~ THE lien shall be paid by the provider.

3 (2) From the time of ~~such~~ THE recording, there exists a lien for an
4 amount equal to the reasonable value of services to be performed under
5 a life care contract in favor of each resident on the land and
6 improvements owned by the provider, not exempt from execution, ~~which~~
7 THAT are listed in the notice of lien filed pursuant to subsection (3) of this
8 section and ~~which~~ THAT are located in the county in which the notice of
9 lien is recorded.

10 (3) The lien shall be perfected by the commissioner by executing
11 by affidavit the notice and claim of lien, which shall contain:

12 (a) The legal description of the lands and improvements to be
13 charged with a lien;

14 (b) The name of the owner of the property affected;

15 (c) A statement providing that the lien has been filed by the
16 commissioner pursuant to this section.

17 (4) The lien may be foreclosed by civil action.

18 (5) Any number of persons claiming liens against the same
19 property pursuant to this section may join in the same action. If separate
20 actions are commenced, the court may consolidate ~~such~~ THE actions. The
21 court shall, as part of the costs, allow reasonable attorney fees for each
22 claimant who is a party to the action.

23 (6) In a civil action filed pursuant to this section, the judgment
24 shall be given in favor of each resident having a lien who has joined in
25 the foreclosure action for the amount equal to the reasonable value of
26 services to be performed under a life care contract in favor of each
27 resident. The court shall order the sheriff to sell any property subject to

1 the lien at the time judgment is given, in the same manner as real and
2 personal property is sold on execution. The lien for the reasonable value
3 of services to be performed under a life care contract shall be on equal
4 footing with claims of other residents. If a sale is ordered and the property
5 sold and the proceeds of the sale are not sufficient to discharge all liens
6 of residents against the property, the proceeds shall be prorated among the
7 respective residents.

8 (7) The liens provided for in this section are preferred to all liens,
9 mortgages, or other encumbrances upon the property attaching
10 subsequently to the time the lien is recorded and are preferred to all
11 unrecorded liens, mortgages, and other encumbrances. The amount
12 secured by any lien having priority to the lien filed pursuant to this
13 section may not be increased without prior approval of the commissioner.

14 (8) The commissioner shall file a release of the lien upon proof of
15 complete performance of all obligations to residents pursuant to life care
16 contracts.

17 (9) The commissioner may subordinate any lien filed pursuant to
18 this section to the lien of a first mortgage or other long-term financing
19 obtained by the provider, regardless of the time at which the subsequent
20 lien attaches.

21 **11-49-105. [Formerly 12-13-107] Reserve requirements.**

22 (1) Any provider shall maintain reserves covering obligations under all
23 life care agreements. The reserves shall be equivalent to the sum of the
24 following:

25 (a) (I) For those debt obligations that are collateralized by the
26 provider's facility and that require a balloon payment, the amount of
27 interest due and payable or accrued in the next eighteen months.

1 (II) For purposes of this ~~paragraph (a)~~ SUBSECTION (1)(a), any
2 amounts held in reserve or escrow to fulfill debt agreements shall be
3 considered eligible to meet the requirements of this ~~paragraph (a)~~
4 SUBSECTION (1)(a).

5 (b) (I) For all other debt obligations that are collateralized by the
6 provider's facility, an amount equal to the next twelve months' principal
7 and interest.

8 (II) For purposes of this ~~paragraph (b)~~ SUBSECTION (1)(b), any
9 amounts held in reserve or escrow to fulfill debt agreements shall be
10 considered eligible to meet the requirements of this ~~paragraph (b)~~
11 SUBSECTION (1)(b).

12 (c) (I) An amount not less than twenty percent of the facility's
13 operating expenses for the immediately preceding year.

14 (II) For purposes of this ~~paragraph (c)~~ SUBSECTION (1)(c),
15 "operating expenses":

16 (A) Includes all expenses of the facility, except interest included
17 in ~~paragraphs (a) and (b)~~ SUBSECTIONS (1)(a) AND (1)(b) of this
18 ~~subsection (1)~~ SECTION and depreciation or amortization expenses; and

19 (B) Means budgeted expenses pursuant to a budget approved by
20 the governing board of the provider, for providers in operation less than
21 twelve months.

22 (2) The reserves shall consist of the following:

23 (a) Savings accounts or certificates of deposit in state or national
24 banks located in this state ~~which~~ THAT are members of the federal deposit
25 insurance corporation or any successor agency thereto;

26 (b) Savings accounts or savings certificates in state or federal
27 savings or loan associations located in this state ~~which~~ THAT are members

1 of the federal deposit insurance corporation or any successor agency
2 thereto;

3 (c) Notes receivable from residents to the extent of the portion due
4 and payable within twelve months;

5 (d) Bonds and stocks selected from an approved list, as
6 determined by the commissioner. If stocks, bonds, and securities that are
7 not on the approved list are part of the reserves, and if they are to be
8 retained as part of the reserves, it shall not be necessary that ~~such~~ THE
9 unapproved stocks, bonds, and securities be disposed of immediately, but
10 they shall be disposed of in accordance with rules promulgated pursuant
11 to this ~~article~~ ARTICLE 49, which disposal shall be accomplished in a
12 gradual manner so as to avoid loss to providers. Securities ~~which~~ THAT,
13 although not on the approved list, should be retained in the reserve for
14 reasons acceptable to the commissioner may be retained with the specific
15 approval of the commissioner. Investments in stocks and bonds will be
16 valued at their fair market value.

17 ~~(e) (Deleted by amendment, L. 95, p. 150, § 1, effective April 7,~~
18 ~~1995.)~~

19 ~~(f) (I) (e) (I) Except as provided in subparagraph (H) of this~~
20 ~~paragraph (f) SUBSECTION (2)(e)(II) OF THIS SECTION, accounts receivable~~
21 ~~with respect to life care contracts that are:~~

22 (A) Not considered past due by the provider if owed to the
23 provider by a natural person;

24 (B) Due from the United States or any agency thereof, any state
25 in the United States or any agency thereof, or any institution, pension
26 fund, or trust fund from which collection is reasonably assured.

27 (II) Accounts receivable that are eligible under this ~~paragraph (f)~~

1 SUBSECTION (2)(e) may be used to fulfill no more than fifty percent of the
2 provider's total reserve requirement.

3 ~~(g) and (h) (Deleted by amendment, L. 95, p. 150, § 1, effective~~
4 ~~April 7, 1995.)~~

5 ~~(i) (f)~~ Investment certificates or shares in open-end investment
6 trusts whose management has been managing a mutual fund registered
7 under the federal "Investment Company Act of 1940", 15 U.S.C. SECS.
8 80a-1 TO 80a-64, or whose management has been registered as an
9 investment adviser under the federal "Investment Advisers Act of 1940",
10 15 U.S.C. SECS. 80b-1 TO 80b-21, and in either case currently has at least
11 one hundred million dollars under its supervision, is qualified for sale in
12 Colorado, has at least forty percent of its directors or trustees not
13 affiliated with the fund's management company or principal underwriter
14 or any of their affiliates, is registered under the federal "Investment
15 Company Act of 1940", and is a fund listed as qualifying under rules
16 maintained by the secretary of state in cooperation with the division of
17 insurance.

18 ~~(3) (Deleted by amendment, L. 95, p. 150, § 1, effective April 7,~~
19 ~~1995.)~~

20 ~~(4) (3)~~ Any person or organization ~~which~~ THAT entered into life
21 care contracts prior to January 1, 1974, but ~~which~~ THAT was not required
22 prior to ~~such~~ THAT date to obtain a license is not required to maintain
23 reserves covering obligations assumed under any such contract entered
24 into prior to January 1, 1974.

25 ~~(5) (Deleted by amendment, L. 95, p. 150, § 1, effective April 7,~~
26 ~~1995.)~~

27 **11-49-106. [Formerly 12-13-108] Annual report by providers**

1 - fee. (1) Each provider shall file an annual report with the commissioner
2 within ninety days after the end of its fiscal year that contains the certified
3 financial statements for each facility and such other information as may
4 be required by the commissioner. The annual report shall be made in a
5 form prescribed by the commissioner.

6 (2) A provider shall amend its annual report on file with the
7 commissioner if an amendment is necessary to prevent the report from
8 containing a material misstatement of fact or omission of a material fact.

9 (3) A provider shall make its annual report available to residents
10 upon request.

11 (4) The failure to file an annual report within the time prescribed
12 in subsection (1) of this section shall constitute a violation of this ~~article~~
13 ARTICLE 49.

14 **11-49-107. [Formerly 12-13-110] Examination - fees.** The
15 commissioner may conduct an examination of the affairs of any provider
16 as often as the commissioner deems it necessary for the protection of the
17 interests of the people of this state. Providers shall maintain copies of
18 their books and records in Colorado to provide access for the purposes of
19 this ~~article~~ ARTICLE 49. The commissioner shall assess each provider at
20 least semiannually, to cover the annual direct and indirect costs of
21 examinations, supervision, and administration conducted pursuant to the
22 provisions of this section. ~~Such~~ THE assessments shall be calculated in
23 terms of cents per thousand dollars of total escrowed entrance fees and
24 reserves maintained. The assessment calculation, or ratio of the
25 assessment charged to total escrowed entrance fees and reserves
26 maintained, shall be alike in all cases. On or before the dates specified by
27 the commissioner, each association shall pay its assessment. If deemed

1 necessary, the commissioner may estimate a per diem rate to be charged
2 for examinations and charge a provider for the actual cost of any
3 examination documented by the commissioner.

4 **11-49-108. [Formerly 12-13-111] Rules.** The board may
5 promulgate reasonable rules in accordance with article 4 of title 24
6 ~~C.R.S.~~, for effectuating any provision of this ~~article~~ ARTICLE 49.

7 **11-49-109. [Formerly 12-13-112] Violation.** Any person acting
8 in the capacity of a provider who enters into a life care contract, or
9 extends the term of an existing life care contract, without acting in
10 compliance with the provisions of this ~~article~~ ARTICLE 49 is guilty of a
11 misdemeanor and, upon conviction thereof, shall be punished by a fine of
12 not more than ten thousand dollars, or by imprisonment in the county jail
13 for not more than six months, or by both such fine and imprisonment.

14 **11-49-110. [Formerly 12-13-113] Article does not apply to**
15 **facilities licensed by department of public health and environment.**
16 The provisions of this ~~article~~ ARTICLE 49 shall not apply to any hospital
17 or other facility that the department of public health and environment is
18 authorized to license pursuant to part 1 of ~~article 1~~ ARTICLE 1.5 and part
19 1 of article 3 of title 25; ~~C.R.S.~~, except that nursing care facilities and
20 assisted living residences that are part of the facility of a provider as
21 defined in section ~~12-13-101~~ 11-49-101 shall be subject to the provisions
22 of this ~~article~~ ARTICLE 49.

23 **11-49-111. [Formerly 12-13-114] Life care contract - content.**
24 (1) Each life care contract shall be written in a clear and coherent manner
25 using words with common and everyday meanings and shall:
26 (a) Show the value of all property transferred, including but not
27 limited to donations, subscriptions, fees, and any other amounts initially

1 paid or payable by or on behalf of the prospective resident;

2 (b) Show all the services ~~which~~ THAT are to be provided by the
3 provider to the prospective resident, including, in detail, all items ~~which~~
4 THAT the prospective resident will receive, such as board, room, clothing,
5 incidentals, medical care, transportation, and burial, and whether the
6 items will be provided for a designated time period or for life and the
7 monthly charge for ~~such~~ THE services;

8 (c) Be accompanied by a financial statement showing in
9 reasonable detail the financial condition of the provider, including a
10 statement of earnings for the previous twenty-four-month period, or such
11 shorter period if the facility has been in operation for a lesser period,
12 ~~which~~ THAT shall be furnished to the prospective resident;

13 (d) Specify the monthly service fee and whether ~~such~~ THE fee is
14 subject to adjustment;

15 (e) Explicitly state what rights, if any, a resident will have to
16 participate either individually or as part of a group of residents in
17 management and financial decisions affecting the facility.

18 ~~(f) Repealed.~~

19 ~~(2) Repealed.~~

20 **11-49-112. [Formerly 12-13-115] Register.** (1) Every provider
21 shall maintain a register setting forth the following facts concerning each
22 person residing in the life care institution:

23 (a) Name;

24 (b) Last previous address;

25 (c) Age;

26 (d) Nearest of kin, if any;

27 (e) Mother's maiden name;

1 (f) The person responsible for each resident's care and
2 maintenance;

3 (g) Such other data as the commissioner may reasonably require.

4 **11-49-113. [Formerly 12-13-116] Advertisements and**
5 **solicitations of life care contracts - requirements.** Any report, circular,
6 public announcement, certificate, or financial statement, or any other
7 printed matter or advertising material ~~which~~ THAT is designed for or used
8 to solicit or induce persons to enter into any life care contract, and ~~which~~
9 THAT lists or refers to the name of any individual or organization as being
10 interested in or connected with the person, association, or corporation to
11 perform the contract, shall clearly state the extent of financial
12 responsibility assumed by that individual or organization for the person,
13 association, or corporation and the fulfillment of its contracts.

14 **11-49-114. [Formerly 12-13-117] Injunction against violations**
15 **- prosecution.** (1) The commissioner may bring an action, through the
16 attorney general, to enjoin the threatened violation or continued violation
17 of the provisions of this ~~article~~ ARTICLE 49 or of any of the rules
18 promulgated pursuant to this ~~article~~ ARTICLE 49, in the district court for
19 the county in which the violation occurred or is about to occur. Any
20 proceeding under the provisions of this section shall be subject to the
21 Colorado rules of civil procedure; except that the commissioner shall not
22 be required to allege facts necessary to show or tending to show the lack
23 of an adequate remedy at law or to show or tending to show irreparable
24 damage or loss. The court may award the attorney general all costs
25 incurred in bringing any action under this section.

26 (2) Upon application by the commissioner, the attorney general or
27 the district attorney of any judicial district in this state shall institute and

1 prosecute an action for the criminal violation of any provision of this
2 ~~article~~ ARTICLE 49.

3 **11-49-115. [Formerly 12-13-118] Local regulations.** The
4 provisions of this ~~article~~ ARTICLE 49 shall not prevent local authorities of
5 any county, city, town, or city and county, within the reasonable exercise
6 of the police power, from adopting rules, by ordinance or resolution,
7 prescribing standards of sanitation, health, and hygiene for facilities
8 ~~which~~ THAT are not in conflict with the provisions of this ~~article~~ ARTICLE
9 49 or the rules adopted by the commissioner pursuant thereto, and
10 requiring a local health permit for the maintenance or conduct of any such
11 facility within ~~such~~ THE county, city, town, or city and county.

12 **SECTION 2.** In Colorado Revised Statutes, **add with amended**
13 **and relocated provisions** article 110 to title 11 as follows:

14 **ARTICLE 110**

15 **Money Transmitters**

16 **PART 1**

17 **GENERAL PROVISIONS**

18 **11-110-101. [Formerly 12-52-101] Short title.** THE SHORT TITLE
19 OF this ~~article shall be known and may be cited as~~ ARTICLE 110 IS the
20 "Money Transmitters Act".

21 **11-110-102. [Formerly 12-52-102] Legislative declaration.** It
22 is declared to be the policy of this state that checks, drafts, money orders,
23 or other instruments for the transmission or payment of credit or money
24 are widely used by the people of this state as a process of settling
25 accounts or debts and that sellers and issuers of ~~such~~ THE instruments
26 receive, in the aggregate, large sums of money from the people of this
27 state and it is therefore imperative that the integrity, experience, and

1 financial responsibility and reliability of those engaged in the various
2 types of businesses dealing in ~~such~~ THE instruments be above reproach.
3 In order that the people of this state may be safeguarded from default in
4 the payment of these instruments, it is necessary that proper regulatory
5 authority be established through the banking board. Any person who sells
6 or issues ~~such~~ THE instruments without complying with the provisions of
7 this ~~article~~ ARTICLE 110 endangers the public interest.

8 **11-110-103. [Formerly 12-52-103] Definitions.** As used in this
9 ~~article~~ ARTICLE 110, unless the context otherwise requires:

10 (1) "Banking board" or "board" means the banking board created
11 in section 11-102-103. ~~C.R.S.~~

12 ~~(1.5)~~ (2) "Commissioner" means the state bank commissioner
13 appointed and serving pursuant to section 11-102-101 (2). ~~C.R.S.~~

14 ~~(1.6)~~ (3) "Control" means:

15 (a) Ownership of, or the power to vote, directly or indirectly,
16 twenty-five percent or more of a class of voting securities or voting
17 interests of a licensee, applicant, or person in control of a licensee or
18 applicant;

19 (b) The power to elect a majority of executive officers, managers,
20 directors, trustees, or other persons exercising managerial authority of a
21 licensee, applicant, or person in control of a licensee or applicant; or

22 (c) The power to exercise, directly or indirectly, a controlling
23 influence over the management or policies of a licensee, applicant, or
24 person in control of a licensee or applicant.

25 ~~(1.7)~~ (4) "Engagement letter" means a letter that sets the scope and
26 terms of an independent audit.

27 ~~(2)~~ (5) "Exchange" means any check, draft, money order, or other

1 instrument for the transmission or payment of money or credit. It does not
2 mean money or currency of any nation.

3 ~~(2.5)~~ (6) "Executive officer" means a president, chief executive
4 officer, chairperson of an executive committee, responsible individual, or
5 chief financial officer of a licensee, and any other person who performs
6 similar functions.

7 ~~(3)~~ (7) "Issuing" means the act of drawing any instrument of
8 exchange by a person who engages in the business of drawing ~~such~~ THE
9 instruments as a service or for a fee or other consideration.

10 ~~(4)~~ (8) "Licensee" means any person duly licensed by the banking
11 board pursuant to the provisions of this ~~article~~ ARTICLE 110.

12 ~~(4.1)~~ (9) "Management letter" means a letter, written by the
13 auditor to the management of a licensee, reporting the auditor's findings
14 and suggestions resulting from an independent audit.

15 ~~(4.2)~~ (10) "Managing official" means a person who has significant
16 oversight duties over a licensee or applicant as determined by the board.

17 ~~(4.3)~~ (11) "Money transmission" means the sale or issuance of
18 exchange or engaging in the business of receiving money for transmission
19 or transmitting money within the United States or to locations abroad by
20 any and all means including but not limited to payment instrument, wire,
21 facsimile, or electronic transfer.

22 ~~(4.5)~~ (12) "Outstanding payment instrument" means any exchange
23 sold or issued by a licensee or any exchange issued by the licensee ~~which~~
24 THAT has been sold by an agent of the licensee in the United States, ~~which~~
25 THAT has been reported to the licensee as having been sold, and ~~which~~
26 THAT has not yet been paid by or for the licensee.

27 ~~(4.7)~~ (13) "Owner" means a person with an ownership interest in

1 a licensee or applicant that is a sole proprietorship or partnership.

2 (5) (14) "Person" means any natural person, firm, association,
3 partnership, registered limited liability partnership, syndicate, joint stock
4 company, unincorporated company or association, limited liability
5 company, common law trust, or any corporation organized under the laws
6 of the United States or of any state or territory of the United States or of
7 any foreign country.

8 (6) (15) "Principal member" means a person who has a significant
9 ownership interest in a licensee or applicant that is an association, trust,
10 or limited liability company or similar entity, as determined by the board.

11 (7) (16) "Principal shareholder" means a person who has a
12 significant ownership interest in a corporate licensee or applicant.

13 (8) (17) "Significant ownership interest" means an ownership
14 interest that causes the owner to have significant control of a licensee or
15 applicant as determined by the board.

16 **11-110-104. [Formerly 12-52-103.5] Applicability of powers of**
17 **banking board and bank commissioner to money orders.** The powers,
18 duties, and functions of the banking board and the commissioner
19 contained in article 102 of THIS title 11 ~~C.R.S.~~, and the declaration of
20 policy contained in section 11-101-102 ~~C.R.S.~~, shall apply to the
21 provisions of this ~~article~~ ARTICLE 110. For the purposes of this section
22 and section 11-102-104, ~~C.R.S.~~, the banking board shall have the same
23 powers, duties, and functions concerning a violation of this ~~article~~
24 ARTICLE 110 or a rule issued pursuant to this ~~article~~ ARTICLE 110 as the
25 board has concerning a violation of the "Colorado Banking Code", a
26 statute, or a rule issued pursuant to that code.

27 **11-110-105. [Formerly 12-52-104] License required -**

1 **investigations.** (1) A person shall not engage in the business of money
2 transmission without first procuring a license from the board; except that
3 an agent, subagent, or representative of a licensee or an employee of an
4 agent, subagent, or representative who acts on behalf of a licensee in the
5 transmission of money by the licensee is not required to be licensed under
6 this ~~article~~ ARTICLE 110.

7 (2) The board may investigate any person believed to be engaging
8 in the business of money transmission without a valid license required
9 under this section.

10 **11-110-106. [Formerly 12-52-105] Exemptions.** Nothing in this
11 ~~article~~ ARTICLE 110 shall apply to: Departments or agencies of the United
12 States of America, or to any state or municipal government, or to
13 corporations organized under the general banking, savings and loan, or
14 credit union laws of this state or of the United States, or to the receipt of
15 money by an incorporated telegraph or cable company at any office or
16 agency thereof for immediate transmission by telegraph or cable.

17 **11-110-107. [Formerly 12-52-106] Application for license.**

18 (1) Application for a license shall be made in writing, under oath, to the
19 banking board on such form as it may prescribe. The application shall:

20 (a) State the name of the applicant and the address of his OR HER
21 principal office;

22 (b) Contain evidence that the applicant possesses qualifications
23 and experience as required by the banking board pursuant to rule. If the
24 applicant is a joint stock association, common law trust, unincorporated
25 company or association, limited liability company, or corporation, the
26 secretary or any assistant secretary thereof shall certify the name and
27 address of each of the officers, directors, trustees, or other managing

1 officials together with a designation of the office or offices held by each
2 and evidence that each ~~such~~ individual possesses the qualifications and
3 experience required by the banking board pursuant to rule and shall
4 submit ~~such~~ THE certificate to the banking board with the application.

5 (c) State the date and place of incorporation;

6 (d) If the applicant has one or more branches, subsidiaries,
7 affiliates, agents, or other locations at or through which the applicant
8 proposes to engage in the business of issuing checks, drafts, money
9 orders, or other instruments for the transmission or payment of money or
10 credit, state the name and address of each such location;

11 ~~(d.5)~~ (e) Contain a set of fingerprints for each of the owners,
12 principal shareholders, principal members, directors, trustees, officers, or
13 other managing officials. The commissioner shall forward the fingerprints
14 to the Colorado bureau of investigation for the purpose of obtaining a
15 fingerprint-based criminal history record check. Upon receipt of
16 fingerprints and payment for the costs, the Colorado bureau of
17 investigation shall conduct a state and national fingerprint-based criminal
18 history record check utilizing records of the Colorado bureau of
19 investigation and the federal bureau of investigation. The board shall be
20 the authorized agency to receive information regarding the result of any
21 national criminal history record check. Only the actual costs of ~~such~~ THE
22 record check shall be borne by the applicant.

23 ~~(e)~~ (f) Contain such other data, financial statements, and pertinent
24 information as the banking board may require from time to time with
25 respect to the applicant or its directors, trustees, officers, members,
26 branches, subsidiaries, affiliates, or agents.

27 (2) Each application for a license shall be accompanied by

1 financial statements of the applicant and a bond in the form and the
2 amount specified in this ~~article~~ ARTICLE 110.

3 **11-110-108. [Formerly 12-52-107] Bond - condition - amount**
4 **- rules.** (1) (a) Each approved applicant shall furnish a corporate surety
5 bond in the principal sum of one million dollars, except as otherwise
6 provided in this subsection (1), by a bonding company or insurance
7 company authorized to do business in this state, in which the applicant is
8 named as obligor, to be approved by the banking board, ~~which~~ THAT shall
9 run to the state of Colorado for the use and benefit of the state and of any
10 creditor of the licensee for any liability incurred on any exchange issued
11 by the licensee. The bond shall be conditioned that the obligor will
12 faithfully conform to and abide by the provisions of this ~~article~~ ARTICLE
13 110 and will honestly and faithfully apply all funds received for the
14 performance of all obligations and undertakings for exchange issued and
15 sold under this ~~article~~ ARTICLE 110 and will pay to the state and to any
16 person all money that becomes due and owing to the state or to ~~such~~ THE
17 person under the provisions of this ~~article~~ ARTICLE 110 because of any
18 exchange sold or issued by ~~such~~ THE licensee. The bond shall remain in
19 force and effect until the surety is released from liability by the banking
20 board or until the bond is cancelled by the surety, which cancellation may
21 be had only upon ninety days' written notice to the banking board. ~~Such~~
22 THE cancellation shall not affect any liability incurred or accrued prior to
23 the termination of the ninety-day period. If the banking board finds, at any
24 time, any bond to be exhausted, a replacement bond in an equal amount
25 shall be filed by the licensee within thirty days after written demand
26 therefor.

27 (b) The banking board shall by rule establish financial standards

1 by which to evaluate the financial condition or solvency of licensees and
2 for the bond amount set under ~~paragraph (a) of this subsection (1)~~
3 SUBSECTION (1)(a) OF THIS SECTION to be decreased to not less than two
4 hundred fifty thousand dollars, following application by the licensee and
5 an opportunity for hearing before the banking board, in such amounts as
6 necessary up to the amount provided in ~~paragraph (a) of this subsection~~
7 ~~(1)~~ SUBSECTION (1)(a) OF THIS SECTION to protect purchasers of exchange.

8 (c) The banking board shall by rule establish financial standards
9 by which to evaluate the financial condition or solvency of licensees and
10 for the bond amount to be increased above the amount provided in
11 ~~paragraph (a) of this subsection (1)~~ SUBSECTION (1)(a) OF THIS SECTION
12 if the banking board determines, following notice to the licensee and an
13 opportunity for hearing before the banking board, that the customers of
14 ~~such~~ THE licensees are at undue risks, but in no case shall the total bond
15 required of a licensee be greater than two million dollars. In promulgating
16 ~~such~~ THE rules, the banking board shall utilize and adopt generally
17 accepted accounting principles for the evaluation and determination of the
18 financial condition of licensees.

19 (2) (a) In lieu of the surety bond required by subsection (1) of this
20 section, the licensee may deposit with the board securities with a par
21 value equal to the amount of the surety bond.

22 (b) Securities under this subsection (2) must be rated in one of the
23 three highest grades as defined by a nationally recognized organization
24 that rates securities and must consist of:

25 (I) General obligations of, or securities fully guaranteed by, the
26 United States of America or any agency or instrumentality of or
27 corporation wholly owned by the United States of America directly or

1 indirectly; or

2 (II) Direct general obligations of the state of Colorado, or of any
3 county, town, city, village, school district, or other political subdivision
4 or municipal corporation of the state of Colorado.

5 (c) The board shall hold the securities to secure the same
6 obligations as would any surety bond required by this ~~article~~ ARTICLE 110.
7 The licensee may exchange the securities so deposited from time to time
8 for other securities that qualify under this subsection (2) upon written
9 notification to, and written approval by, the commissioner. All of the
10 securities are subject to sale and transfer, and the board may dispose of
11 the proceeds only on the order of a court of competent jurisdiction. The
12 licensee is entitled to receive the interest or dividends on the securities
13 unless prohibited by a court of competent jurisdiction. The board may
14 provide for custody of the securities by any qualified trust company or
15 bank located in the state of Colorado. The depositing licensee shall pay
16 the compensation of any person acting as custodian under this section.

17 (3) In addition to the bond required under subsection (1) of this
18 section, the commissioner, pursuant to rules promulgated by the banking
19 board, may require a licensee to possess investments having an aggregate
20 market value at least equal to the amount of outstanding payment
21 instruments issued or sold by the licensee. For the purposes of this
22 subsection (3), permissible investments shall be:

23 (a) Cash;

24 (b) Certificates of deposit or other debt obligations of a financial
25 institution, either domestic or foreign;

26 (c) Bills of exchange or time drafts drawn on and accepted by
27 federally insured financial depository institutions;

1 (d) Any investment bearing a rating of one of the three highest
2 grades as defined by a nationally recognized organization that rates such
3 securities;

4 (e) Investment securities that are obligations of the United States,
5 its agencies or instrumentalities, or obligations that are guaranteed fully
6 as to principal and interest of the United States, or any obligations of any
7 state, municipality, or any political subdivision thereof;

8 (f) Shares in a money market mutual fund, interest-bearing bills
9 or notes or bonds, debentures, or stock traded on any national securities
10 exchange or on a national over-the-counter market;

11 (g) Such other investments as may be approved by the banking
12 board.

13 (4) It is the intent of the general assembly that in applying the
14 provisions of this section the purpose of the required bond and
15 permissible investments is to protect the Colorado purchasers of
16 exchange, and the amount of the bond and investments that are required
17 of any licensee should not be more than is necessary to afford ~~such~~ THE
18 protection given the financial condition of the licensee as determined
19 under generally accepted accounting principles.

20 (5) Permissible investments, even if commingled with other assets
21 of the licensee, shall be deemed by operation of law to be held in trust for
22 the benefit of the purchasers and holders of the licensee's outstanding
23 payment instruments in the event of the bankruptcy of the licensee.

24 **11-110-109. [Formerly 12-52-108] Issuance of license.**

25 (1) Upon the filing of an application, the commissioner shall investigate
26 the applicant. The applicant shall pay for the cost of the investigation. If
27 the board finds that the applicant is of good moral character and

1 financially responsible and can comply with this ~~article~~ ARTICLE 110, the
2 board shall approve the application and notify the applicant in writing that
3 its approval expires six months after the approval date. Once the approved
4 applicant has notified the board that he or she is prepared to commence
5 operations in Colorado, posted the required bond, and paid the license
6 fee, the board shall issue to the applicant a license to engage in the
7 business of money transmission subject to this ~~article~~ ARTICLE 110.

8 (2) No license shall be issued to an applicant, if a natural person,
9 unless he OR SHE is over twenty-one years of age; or if a partnership or
10 syndicate, unless each of the partners is over twenty-one years of age; or
11 if a joint stock association, common law trust, unincorporated company
12 or association, or corporation, unless each of the officers, directors,
13 trustees, or other managing officials is over twenty-one years of age.

14 (3) If the board denies an application, the board shall, within thirty
15 days thereafter, prepare and file in its office a written order of denial,
16 which must contain the board's findings and reasons supporting the denial
17 and, within ten days after filing the order, the board shall notify the
18 applicant and send him or her a copy of the order. The applicant may
19 request a hearing by the board by submitting a written request to the
20 board within sixty days after receiving notice as specified in section
21 24-4-104 (9) ~~C.R.S.~~, and if so requested the board shall hold a hearing as
22 specified in section 24-4-105. ~~C.R.S.~~

23 (4) A license shall not be issued to an applicant if an owner,
24 principal shareholder, principal member, director, trustee, officer, or other
25 managing official:

26 (a) Submitted a license application under this ~~article~~ ARTICLE 110
27 that was false or misleading as a result of an untrue statement of a

1 material fact or an omission to state a material fact unless the applicant
2 did not know, and in the exercise of reasonable care should not have
3 known, of the untruth or omission;

4 (b) Willfully violated or willfully failed to comply with this ~~article~~
5 ARTICLE 110 or a rule promulgated or order issued under this ~~article~~
6 ARTICLE 110;

7 (c) Within the past ten years, entered a plea of guilty or nolo
8 contendere to, or was convicted of, a felony or misdemeanor involving a
9 breach of fiduciary duty or fraud; or

10 (d) Is subject to a temporary or permanent injunction for violating
11 a state or federal law regulating the financial services industry, including,
12 but not limited to, federal provisions regarding money laundering, record
13 keeping, and registration.

14 **11-110-110. [Formerly 12-52-109] Issuance of license - renewal**
15 **- fee.** (1) Before any license is issued, and annually thereafter on or
16 before January 1 of each succeeding year, the applicant or licensee shall
17 pay to the banking board a license fee in an amount set by the banking
18 board pursuant to section 11-102-104 (11). ~~C.R.S.~~ For each license
19 originally issued between July 1 and December 31 of any year, the
20 applicant shall pay one-half the annual fee required in this section. Each
21 license shall expire on January 1 unless the annual fee for the year has
22 been paid prior to ~~such~~ THAT date.

23 (2) Beginning July 1, 1977, before any license may be renewed,
24 the licensee shall be required to provide the same amount of bond
25 coverage or securities for deposit as an initial applicant under section
26 ~~12-52-107~~ 11-110-108.

27 **11-110-111. [Formerly 12-52-110] Examination - fee - financial**

1 **statements and reports to commissioner - change in control.**

2 (1) (a) The commissioner may examine the books and records of a
3 licensee using risk-based criteria and considering other available
4 regulatory mechanisms as directed by the banking board; shall make and
5 file in the office of the commissioner a correct report in detail disclosing
6 the results of ~~such~~ THE examination; and shall mail a copy of ~~such~~ THE
7 report to the licensee examined. If the licensee's records are located
8 outside this state, the licensee shall, at the option of ~~such~~ THE licensee,
9 either make them available to the commissioner at a convenient location
10 within this state or pay the reasonable and necessary expenses for the
11 commissioner or the commissioner's representative to examine them at
12 the place where they are maintained. The commissioner may designate
13 representatives, including comparable officials of the state in which the
14 records are located, to inspect them on behalf of the commissioner. For
15 ~~such~~ THE examination, the commissioner shall charge a fee in an amount
16 set by the banking board pursuant to section 11-102-104 (11). ~~C.R.S.~~ If
17 any licensee refuses to permit the commissioner to make an examination,
18 ~~such~~ THE licensee shall be subject to such penalty as the commissioner
19 may assess, not in excess of one hundred dollars for each day any such
20 refusal shall continue.

21 (b) In lieu of any examination required by this section to be made
22 by the commissioner, the commissioner may accept the audit of an
23 independent certified public accountant or an independent registered
24 accountant, but the cost of ~~such~~ THE audit shall be borne by the licensee.

25 (2) (a) Every licensee shall file an annual financial statement with
26 the commissioner, audited by an independent certified public accountant
27 or an independent registered accountant, within one hundred fifty days

1 following the close of the licensee's fiscal year. ~~Such~~ THE financial
2 statements shall include a balance sheet, a profit and loss statement, and
3 a statement of retained earnings of the licensee and the licensee's agents
4 and subagents resulting from selling or issuing exchange under this article
5 ARTICLE 110. The financial statements shall be accompanied by copies of
6 the engagement and management letters issued by the independent
7 auditor.

8 (b) Every licensee shall file with the commissioner:

9 (I) Not less than three reports during each calendar year according
10 to the form prescribed by the commissioner. Each report must exhibit in
11 detail, as may be required by the commissioner, the resources and
12 liabilities of the licensee at the close of business on the day specified by
13 the commissioner in writing.

14 (II) A written notification within fifteen days after the occurrence
15 of any of the following:

16 (A) A change in the licensee's managing official;

17 (B) The filing of a petition by or against the licensee under the
18 United States bankruptcy code, 11 U.S.C. secs. 101 to 110, as amended,
19 for bankruptcy or reorganization;

20 (C) The filing of a petition by or against the licensee for
21 receivership or the commencement of any other judicial or administrative
22 proceeding for its dissolution or reorganization;

23 (D) The commencement of a proceeding to revoke or suspend its
24 license in a state or country in which the licensee engages in business or
25 is licensed; or

26 (E) A felony conviction of the licensee or of a managing official,
27 principal member, principal shareholder, or agent of the licensee.

1 (c) If any licensee fails to submit any statement or report to the
2 commissioner as required by this subsection (2), ~~such~~ THE licensee shall
3 pay to the commissioner a penalty of two hundred fifty dollars for each
4 additional day of delinquency as set by the banking board pursuant to
5 section 11-102-104 (11); ~~C.R.S.~~; except that, if in the opinion of the
6 banking board the delay is excusable for good cause shown, no penalty
7 shall be paid.

8 **11-110-112. [Formerly 12-52-110.3] Change in control - rule.**

9 (1) (a) Except as specified in ~~paragraph (b) or (c) of this subsection (1)~~
10 SUBSECTION (1)(b) OR (1)(c) OF THIS SECTION, when a licensee proposes
11 a change of control, the licensee shall:

12 (I) Give the commissioner written notice of the proposed change
13 of control within fifteen days after learning of the proposed change of
14 control;

15 (II) Request approval of the change of control; and

16 (III) Submit a nonrefundable fee in an amount established under
17 section 11-102-104 (11) ~~C.R.S.~~, with the notice.

18 (b) The board, by rule or order, may exempt a person from any of
19 the requirements of ~~subparagraph (II) or (III) of paragraph (a) of this~~
20 ~~subsection (1)~~ SUBSECTION (1)(a)(II) OR (1)(a)(III) OF THIS SECTION if the
21 board finds that it is in the public interest to do so.

22 (c) This subsection (1) does not apply to a public offering of
23 securities.

24 (2) After review of a request for approval under subsection (1) of
25 this section, the board may require the licensee to provide additional
26 information concerning the persons proposed to control the licensee. The
27 additional information must be limited to the same types required of the

1 licensee or persons in control of the licensee as part of its original license
2 or renewal application.

3 (3) The board shall approve a request for change of control under
4 subsection (1) of this section if, after investigation, the board determines
5 that the person or group of persons requesting approval has the
6 competence, experience, character, and general fitness to operate the
7 licensee or person in control of the licensee in a lawful and proper manner
8 and that the public interest will not be jeopardized by the change of
9 control.

10 (4) When an application for a change of control under this section
11 is complete, the board shall give written notice to the licensee of the date
12 on which the board determined the request to be complete and the date on
13 which the board will hold a hearing on the application.

14 (5) Before filing a request for approval to acquire control of a
15 licensee or of a person in control of a licensee, a person may file a written
16 request for a determination from the board as to whether the person would
17 be considered a person in control of a licensee upon consummation of a
18 proposed transaction. If the board determines that the person would not
19 be a person in control of a licensee, the board shall provide to the person
20 written notification to that effect and the proposed person and transaction
21 are not subject to the requirements of subsections (1) to (3) of this
22 section.

23 **11-110-113. [Formerly 12-52-110.5] Compliance with federal**
24 **law.** Each licensee shall comply with state and federal money laundering
25 laws, including, but not limited to, the federal "Bank Secrecy Act", 12
26 U.S.C. sec. 1951 et seq.

27 **11-110-114. [Formerly 12-52-111] Multiple locations.** (1) Each

1 licensee may conduct business at locations within this state the licensee
2 may desire and through agents and subagents the licensee may from time
3 to time appoint. Each licensee shall notify the board by certified mail of
4 any increase in the number of locations at which it conducts its business
5 and shall provide proof that the licensee has increased the required bond
6 or securities accordingly. The notification and proof are due on the date
7 on which the licensee's next report required under section ~~12-52-110~~
8 ~~(2)(b)~~ 11-110-111 (2)(b) is due.

9 (2) Each licensee may, without violating section 5-2-212, ~~C.R.S.~~,
10 notwithstanding whether or not a facility or mode only accepts credit
11 cards, conduct business through physical and electronic facilities,
12 including by telephone and internet, and may charge a different price for
13 the provision of services based upon the type of facility or mode of
14 services used in ~~such~~ THE transaction so long as the price for ~~such~~ THE
15 service within a single such facility or mode is not greater for a credit
16 card than for other forms of payment.

17 **11-110-115. [Formerly 12-52-112] Revocation or surrender of**
18 **license.** (1) The banking board may, upon ten days' notice served
19 personally upon the licensee stating the contemplated action and the
20 grounds therefor, hold a hearing at which the licensee shall have a
21 reasonable opportunity to be heard, for the purpose of determining
22 whether a license should be revoked.

23 (2) After ~~such~~ THE hearing the banking board may revoke any
24 license issued under this ~~article~~ ARTICLE 110 if it finds that:

25 (a) The licensee has failed to maintain the required bond; or

26 (b) The licensee has failed to comply with any order, decision, or
27 finding of the banking board or the commissioner made pursuant to this

1 ~~article~~ ARTICLE 110; or

2 (c) The licensee has violated any provision of this ~~article~~ ARTICLE
3 110; or

4 (d) Facts exist ~~which~~ THAT would have warranted the banking
5 board's refusal to issue the original license; or

6 (e) The licensee is engaged in a business a substantial portion of
7 which involves the processing, manufacture, or purchase and sale of
8 commodities or articles of tangible personal property and ~~such~~ THE
9 licensee has failed to maintain constantly a separate bank deposit account
10 or accounts for the exclusive payment of exchange issued by ~~such~~ THE
11 licensee; or

12 (f) The licensee has sold or issued exchange without receiving
13 payment for the face value of the exchange prior to the time of ~~such~~ THE
14 sale or issuance.

15 (3) A licensee may surrender any license by delivering to the
16 banking board written notice that he OR SHE surrenders ~~such~~ THE license,
17 but ~~such~~ THE surrender shall not affect the licensee's civil or criminal
18 liability for acts committed prior to the surrender, or affect the liability on
19 any bond, or entitle the licensee to a return of any part of any license fee.

20 **11-110-116. [Formerly 12-52-113] Rules.** The banking board
21 may make, promulgate, alter, amend, or revise reasonable rules ~~and~~
22 ~~regulations~~ as may be necessary for the enforcement and execution of this
23 ~~article~~ ARTICLE 110.

24 **11-110-117. [Formerly 12-52-114] Review.** Any person
25 aggrieved and directly affected by an order of the banking board issued
26 under this ~~article~~ ARTICLE 110 may seek a review in the district court of
27 Colorado in and for the county in which the principal place of business

1 of the licensee or applicant is located. The filing of such a petition for
2 review shall not, of itself, stay enforcement of an order, but the court may
3 order a stay upon such terms as it deems proper.

4 **11-110-118. [Formerly 12-52-115] Penalty for violations.** Any
5 person who violates any provision of this ~~article~~ ARTICLE 110 is guilty of
6 a misdemeanor and, upon conviction thereof, shall be punished by a fine
7 of not more than ten thousand dollars. Each such violation shall constitute
8 a separate offense.

9 **11-110-119. [Formerly 12-52-115.5] Civil remedies -**
10 **restraining orders - injunctions.** (1) (a) If the board has cause to
11 believe that a person has sold or issued exchange or transmitted money
12 without a license issued under this ~~article 52~~ ARTICLE 110, the board may
13 obtain from the district court of the city and county of Denver a
14 temporary restraining order or a preliminary or permanent injunction
15 prohibiting the person from violating this ~~article~~ ARTICLE 110. In ~~such~~
16 THE action, the board shall not be required to plead or prove irreparable
17 injury or the inadequacy of the remedy at law.

18 (b) The court shall not require the board to post a bond.

19 (c) The district court may issue any orders or judgments necessary
20 to prevent a violation of this ~~article~~ ARTICLE 110. The district court may
21 award to the board the costs and attorney fees incurred in enforcing this
22 ~~article~~ ARTICLE 110.

23 (2) A person who violates a district court order or injunction
24 entered pursuant to this section shall be subject to the contempt powers
25 of the district court and shall pay a civil penalty of not more than ten
26 thousand dollars for each such violation. Each day a person continues to
27 violate the district court order shall be a separate violation; except that the

1 aggregate total of civil penalties shall not exceed one hundred thousand
2 dollars for a related series of violations.

3 (3) The civil remedies imposed by this section shall be in addition
4 to any other penalty or remedy for a violation of this ~~article~~ ARTICLE 110.

5 **11-110-120. [Formerly 12-52-116] Notice - banking board -**
6 **consumers.** (1) The licensee or ~~such~~ THE licensee's agents or subagents
7 shall give notice to the banking board, by certified mail, of any legal
8 action which shall be brought against the licensee and of any judgment
9 which shall be entered against ~~such~~ THE licensee, by any creditor or
10 claimant, relating to selling or issuing exchange or transmitting money
11 under this ~~article~~ ARTICLE 110, together with details sufficient to identify
12 the action or judgment, within ten days after the commencement of any
13 such action or notice to the licensee of entry of any such judgment.
14 Within ten days after it pays any claim of judgment to any such creditor
15 or such claimant, the corporate surety shall give notice to the banking
16 board, by certified mail, of ~~such~~ THE payment, together with details
17 sufficient to identify the claimant or creditor and the claim or judgment
18 so paid.

19 (2) The licensee or ~~such~~ THE licensee's affiliates, agents, or
20 subagents shall immediately give notice to the banking board, by certified
21 mail, of any information in their possession with regard to money orders
22 issued by them that have been returned to purchasers unpaid.

23 (3) (a) Except for a money exchange or transmission conducted
24 at a branch of a federally insured depository institution, a licensee shall
25 post and maintain at its establishment a notice advising the customer that
26 the selling or issuing of exchange is regulated by the division of banking
27 and that the customer may report alleged violations of the law to the

1 division of banking. ~~Such~~ THE notice shall be created and furnished to the
2 licensee by the commissioner.

3 (b) ~~Such~~ THE notice shall be posted conspicuously in a
4 well-lighted place visible to customers.

5 **11-110-121. [Formerly 12-52-117] Repeal of article - review of**
6 **functions.** (1) This ~~article~~ ARTICLE 110 is repealed, effective September
7 1, 2024.

8 (2) Prior to such repeal, the licensing functions of the
9 commissioner and the banking board shall be reviewed as provided for in
10 section 24-34-104. ~~C.R.S.~~

11 PART 2

12 MONEY TRANSMITTER AGENTS

13 **11-110-201. [Formerly 12-52-201] Agent information - rules.**

14 (1) A money transmitter licensed pursuant to part 1 of this ~~article~~
15 ARTICLE 110 shall annually send the following information to the banking
16 board on such form as it may prescribe:

17 (a) The name of each agent and the address and telephone number
18 of each of the agent's offices that engage in the business of money
19 transmission;

20 (b) The name, address, and telephone number of each of the
21 owners of the agent holding more than a ten percent interest in the
22 business if the agent is a partnership or an entity created pursuant to title
23 7; ~~C.R.S.~~;

24 (c) The services concerning money transmission that are offered
25 by the agent and the locations where ~~such~~ THE services are offered;

26 (d) Such other pertinent information that the banking board may
27 require concerning the agent or its directors, trustees, officers, members,

1 branches, subsidiaries, affiliates, or agents as promulgated by rule.

2 (2) The banking board may promulgate rules necessary to
3 implement this section.

4 **11-110-202. [Formerly 12-52-202] Applicability.** (1) This part
5 2 does not apply to an agent of a business licensed pursuant to part 1 of
6 this ~~article~~ ARTICLE 110 to the extent that the agent is selling or adding
7 additional money to stored value issued by the business.

8 (2) For purposes of this section, "stored value" means a card,
9 code, or other device that is issued to a consumer in a specified dollar
10 amount, which may or may not be increased in value, and is redeemable
11 at a single merchant, an affiliated group of merchants, or multiple
12 unaffiliated groups of merchants or usable at automated teller machines.

13 **11-110-203. [Formerly 12-52-203] Notice of laws - rules.**

14 (1) The banking board shall promulgate rules to create a form containing
15 a notice of the contents of section 18-5-309 ~~C.R.S.~~, and other state and
16 federal laws concerning money laundering.

17 (2) (a) An agent of a business licensed pursuant to part 1 of this
18 ~~article~~ ARTICLE 110 shall require each employee who performs money
19 transmission services to either:

20 (I) Understand and sign the form, created under subsection (1) of
21 this section, affirming knowledge of the money laundering laws prior to
22 the employee performing ~~such~~ THE services; or

23 (II) Receive training that covers the money laundering laws within
24 thirty days before the employee performs ~~such~~ THE services.

25 (b) The agent shall maintain a record of each employee along with
26 the signed notice or evidence of training in compliance with ~~paragraph (a)~~
27 ~~of this subsection (2)~~ SUBSECTION (2)(a) OF THIS SECTION so long as the

1 employee provides ~~such~~ THE services. The records may be maintained in
2 an electronic or digital format that reproduces the signature on the
3 documents by the agent.

4 **11-110-204. [Formerly 12-52-204] Records.** The information
5 sent to the banking board under section ~~12-52-201~~ 11-110-201 and the
6 records required by section ~~12-52-203~~ 11-110-203 shall be open to any
7 law enforcement officer acting within the scope and course of the
8 officer's official duties.

9 **11-110-205. [Formerly 12-52-205] Agent requirements.** (1) No
10 money transmitter licensed pursuant to part 1 of this ~~article~~ ARTICLE 110
11 shall knowingly contract with an agent or owner of an agent holding more
12 than a ten percent interest in the business who has been convicted of or
13 pleaded guilty or nolo contendere to the offenses in article 5 of title 18;
14 ~~C.R.S.~~; a felony in the selling or issuing of exchange or in money
15 transmission; a felony involving a financial institution; or an equivalent
16 crime outside Colorado.

17 (2) No agent of a money transmitter licensed pursuant to this
18 ~~article~~ ARTICLE 110 shall knowingly employ a person to perform money
19 transmission services who has been convicted of or pleaded guilty or nolo
20 contendere to the offenses in article 5 of title 18; ~~C.R.S.~~; a felony in the
21 selling or issuing of exchange or in money transmission; a felony
22 involving a financial institution; or an equivalent crime outside Colorado.

23 **11-110-206. [Formerly 12-52-206] Violations.** (1) A person who
24 violates this part 2 commits a class 2 misdemeanor and, for the second or
25 any subsequent offense, the person commits a class 1 misdemeanor and
26 shall be punished as provided in section 18-1.3-501. ~~C.R.S.~~

27 (2) A person who acts as an agent of an unlicensed person

1 required to be licensed by part 1 of this ~~article~~ ARTICLE 110 knowing the
2 unlicensed person does not hold ~~such~~ THE license commits a class 2
3 misdemeanor and shall be punished as provided in section 18-1.3-501.
4 ~~C.R.S.~~

5 **SECTION 3.** In Colorado Revised Statutes, 7-121-401, **amend**
6 the introductory portion, (33.5)(b) introductory portion, and (33.5)(b)(IV)
7 as follows:

8 **7-121-401. General definitions.** As used in articles 121 to 137 of
9 this ~~title~~ TITLE 7, unless the context otherwise requires:

10 (33.5) (b) Notwithstanding ~~paragraph (a) of this subsection (33.5)~~
11 SUBSECTION (33.5)(a) OF THIS SECTION, "residential nonprofit
12 corporation" does not include:

13 (IV) A life care institution regulated under article ~~13 of title 12,~~
14 ~~C.R.S.~~ 49 OF TITLE 11; or

15 **SECTION 4.** In Colorado Revised Statutes, 11-44-101.7, **amend**
16 (1)(b), (2) introductory portion, (2)(a), (3)(d), and (3)(h) as follows:

17 **11-44-101.7. Powers of the financial services board.** (1) The
18 board is the policy-making and rule-making authority for the division and
19 has the power to:

20 (b) Make, modify, reverse, and vacate rules for the proper
21 enforcement and administration of articles 30, ~~and~~ 40 to 46, AND 49 of
22 this ~~title and article 13 of title 12, C.R.S.~~ TITLE 11.

23 (2) In addition to any other powers conferred on it by articles 30,
24 ~~and~~ 40 to 46, AND 49 of this ~~title~~ TITLE 11, the board has the power to:

25 (a) Make all final decisions with respect to the organization,
26 conversion, or merger of credit unions and savings and loan associations
27 and administration of life care institutions or providers pursuant to article

1 ~~13 of title 12, C.R.S.~~ 49 OF THIS TITLE 11;

2 (3) The board has the power to:

3 (d) Issue a declaratory order with respect to the applicability of
4 ~~article 13 of title 12, C.R.S.~~, articles 30, ~~and~~ 40 to 46, AND 49 of this ~~title~~
5 TITLE 11, or any rule ~~and regulation~~ issued by the board to any person,
6 property, or state of facts under said provisions;

7 (h) Perform any acts and make any decisions incidental to or
8 necessary for carrying out its functions as set forth in ~~article 13 of title 12,~~
9 ~~C.R.S.~~, and articles 30, ~~and~~ 40 to 46, AND 49 of this ~~title~~ TITLE 11;

10 **SECTION 5.** In Colorado Revised Statutes, 11-102-103, **amend**
11 (2)(b) as follows:

12 **11-102-103. Banking board - repeal.** (2) (b) There shall be one
13 member who during his or her tenure is, and shall remain, an executive
14 officer of a business licensed pursuant to article ~~52 of title 12, C.R.S.~~ 110
15 OF THIS TITLE 11.

16 **SECTION 6.** In Colorado Revised Statutes, 11-102-104, **amend**
17 (1)(b) as follows:

18 **11-102-104. Powers and duties of banking board.** (1) The
19 banking board is the policy-making and rule-making authority for the
20 division of banking and has the power to:

21 (b) Make, promulgate, alter, amend, or revise reasonable rules as
22 may be necessary for the enforcement and execution of the "Money
23 Transmitters Act", article ~~52 of title 12, C.R.S.~~ 110 OF THIS TITLE 11; and

24 **SECTION 7.** In Colorado Revised Statutes, 11-102-305, **amend**
25 (1)(a)(V) as follows:

26 **11-102-305. Records.** (1) (a) Information from the records of the
27 division shall be revealed only to members of the banking board, except

1 as follows:

2 (V) The commissioner may exchange information as provided by
3 part 2 of article ~~52 of title 12, C.R.S.~~ 110 OF THIS TITLE 11.

4 **SECTION 8.** In Colorado Revised Statutes, 24-34-104, **amend**
5 (25)(a)(II) as follows:

6 **24-34-104. General assembly review of regulatory agencies**
7 **and functions for repeal, continuation, or reestablishment - legislative**
8 **declaration - repeal.** (25) (a) The following agencies, functions, or both,
9 will repeal on September 1, 2024:

10 (II) The licensing functions of the banking board and the state
11 bank commissioner specified in article ~~52 of title 12, C.R.S.~~, 110 OF TITLE
12 11 regarding persons who transmit money;

13 **SECTION 9.** In Colorado Revised Statutes, 30-28-115, **amend**
14 (2)(b)(II) as follows:

15 **30-28-115. Public welfare to be promoted - legislative**
16 **declaration - construction.** (2) (b) (II) The general assembly declares
17 that the establishment of group homes for the aged for the exclusive use
18 of not more than eight persons sixty years of age or older per home is a
19 matter of statewide concern. The general assembly further finds and
20 declares that it is the policy of this state to enable and assist persons sixty
21 years of age or older who do not need nursing facilities and who so elect
22 to live in normal residential surroundings, including single-family
23 residential units. Group homes for the aged shall be distinguished from
24 nursing facilities, as defined in section 25.5-4-103 (14), ~~C.R.S.~~, and
25 institutions providing life care, as defined in section ~~12-13-101 (5),~~
26 ~~C.R.S.~~ 11-49-101 (6). Every county having adopted or ~~which~~ THAT shall
27 adopt a zoning ordinance shall provide for the location of group homes

1 for the aged. A group home for the aged established under this paragraph
2 ~~(b)~~ SUBSECTION (2)(b)(II) shall not be located within seven hundred fifty
3 feet of another such group home, unless otherwise provided for by the
4 county.

5 **SECTION 10.** In Colorado Revised Statutes, 31-23-303, **amend**
6 (2)(b)(II) as follows:

7 **31-23-303. Legislative declaration.** (2) (b) (II) The general
8 assembly declares that the establishment of group homes for the aged for
9 the exclusive use of not more than eight persons sixty years of age or
10 older per home is a matter of statewide concern. The general assembly
11 further finds and declares that it is the policy of this state to enable and
12 assist persons sixty years of age or older who do not need nursing
13 facilities, and who so elect, to live in normal residential surroundings,
14 including single-family residential units. Group homes for the aged shall
15 be distinguished from nursing facilities, as defined in section 25.5-4-103
16 (14), ~~C.R.S.~~, and institutions providing life care, as defined in section
17 ~~12-13-101 (5), C.R.S.~~ 11-49-101 (6). Every municipality having adopted
18 or ~~which~~ THAT shall adopt a zoning ordinance shall provide for the
19 location of group homes for the aged. A group home for the aged
20 established under this paragraph ~~(b)~~ SUBSECTION (2)(b) shall not be
21 located within seven hundred fifty feet of another such group home,
22 unless otherwise provided for by the municipality. Nothing in this
23 paragraph ~~(b)~~ SUBSECTION (2)(b) shall be construed to exempt ~~such~~ THE
24 group homes from compliance with any state, county, or municipal health,
25 safety, and fire codes. On April 29, 1976, every person sixty years of age
26 or older who resides in a skilled or intermediate health care facility and
27 who may be transferred or discharged therefrom to a group home for the

1 aged shall not be so discharged or transferred unless he or she has
2 received ninety days' advance written notice thereof or has agreed in
3 writing to the proposed transfer or discharge.

4 **SECTION 11.** In Colorado Revised Statutes, 39-26-707, **amend**
5 (2.5)(b) as follows:

6 **39-26-707. Food, meals, beverages, and packaging -**
7 **definitions.** (2.5) For purposes of this section, "retirement community"
8 means:

9 (b) An independent living facility designed and operated
10 specifically to serve as the primary residence for persons aged fifty-five
11 or older that provides meals and other services to residents as part of a
12 comprehensive fee, including a facility that qualifies as housing for older
13 persons as defined in section 24-34-502 (7)(b) ~~C.R.S.~~, and a life care
14 institution subject to article ~~13 of title 12, C.R.S.~~ 49 OF TITLE 11; or

15 **SECTION 12. Repeal of relocated provisions in this act.** In
16 Colorado Revised Statutes, **repeal** articles 13 and 52 of title 12.

17 **SECTION 13. Act subject to petition - effective date.** This act
18 takes effect at 12:01 a.m. on the day following the expiration of the
19 ninety-day period after final adjournment of the general assembly (August
20 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
21 referendum petition is filed pursuant to section 1 (3) of article V of the
22 state constitution against this act or an item, section, or part of this act
23 within such period, then the act, item, section, or part will not take effect
24 unless approved by the people at the general election to be held in
25 November 2018 and, in such case, will take effect on the date of the
26 official declaration of the vote thereon by the governor.