

CHAPTER 341

FINANCIAL INSTITUTIONS

HOUSE BILL 24-1328

BY REPRESENTATIVE(S) English and Clifford, Amabile, Lindstedt, Ricks;
also SENATOR(S) Rich.**AN ACT****CONCERNING THE CONTINUATION OF THE REGULATION OF MONEY TRANSMITTERS, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS IN THE 2023 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES.***Be it enacted by the General Assembly of the State of Colorado:***SECTION 1.** In Colorado Revised Statutes, 24-34-104, **repeal** (25)(a)(II); and **add** (31)(a)(XI) as follows:**24-34-104. General assembly review of regulatory agencies and functions for repeal, continuation, or reestablishment - legislative declaration - repeal.** (25) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2024:(II) ~~The licensing functions of the banking board and the state bank commissioner specified in article 110 of title 11 regarding persons who transmit money;~~

(31) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2030:

(XI) THE FUNCTIONS OF THE BANKING BOARD AND THE STATE BANK COMMISSIONER RELATED TO MONEY TRANSMITTERS SPECIFIED IN ARTICLE 110 OF TITLE 11.

SECTION 2. In Colorado Revised Statutes, **amend** 11-110-121 as follows:**11-110-121. Repeal of article - review of functions.** (1) This article 110 is repealed, effective September 1, ~~2024~~ 2030.

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(2) ~~Prior to such~~ BEFORE THE repeal, ~~the licensing functions of the commissioner and the banking board shall be reviewed as provided for in~~ THIS ARTICLE 110 IS SCHEDULED FOR REVIEW IN ACCORDANCE WITH section 24-34-104.

SECTION 3. In Colorado Revised Statutes, 11-110-115, **amend** (1) and (2) introductory portion as follows:

11-110-115. Revocation, suspension, or surrender of license. (1) The banking board may, upon ten days' notice served personally upon the licensee stating the contemplated action and the grounds ~~therefor~~ FOR THE ACTION, hold a hearing at which the licensee ~~shall have~~ HAS a reasonable opportunity to be heard, for the purpose of determining whether a license should be SUSPENDED OR revoked.

(2) After the hearing the banking board may SUSPEND OR revoke any license issued under this article 110 if it finds that:

SECTION 4. In Colorado Revised Statutes, 11-110-108, **amend** (1)(a), (1)(b), and (4) as follows:

11-110-108. Bond - condition - amount - rules. (1) (a) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION (1), each approved applicant shall furnish a corporate surety bond in the principal sum of one million dollars, ~~except as otherwise provided in this subsection (1);~~ by a bonding company or insurance company authorized to do business in this state, in which the applicant is named as obligor, ~~to be approved by the banking board, that shall run~~ RUNS to the state of Colorado for the use and benefit of the state and of any creditor of the licensee for any liability incurred on ~~any exchange issued~~ MONEY TRANSMISSION by the licensee. The bond ~~shall~~ MUST BE APPROVED BY THE BANKING BOARD AND be conditioned that the obligor will faithfully conform to and abide by the provisions of this article 110, ~~and~~ will honestly and faithfully apply all funds received for the performance of all obligations and undertakings for ~~exchange issued and sold under~~ MONEY TRANSMISSION SUBJECT TO this article 110, and will pay to the state and to any person all money that becomes due ~~and owing~~ to the state or to the person under ~~the provisions of this article 110 because of any exchange sold or issued by the licensee~~ MONEY TRANSMISSION. The bond shall remain in force ~~and effect~~ until the surety is released from liability by the banking board or until the bond is canceled by the surety; ~~which~~ EXCEPT THAT A cancellation may be had only upon ninety days' written notice to the banking board. The cancellation ~~shall~~ DOES not affect any liability incurred or accrued prior to the termination of the ninety-day period. If the banking board finds, at any time, ~~any~~ A bond to be exhausted, THE LICENSEE SHALL OBTAIN AND FILE a replacement bond in an equal amount ~~shall be filed by the licensee~~ within thirty days after THE written demand ~~therefor~~ IS RECEIVED.

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

(1) By which to evaluate the financial condition or solvency of licensees; and

(II) For the bond amount set under subsection (1)(a) of this section to be decreased to not less than two hundred fifty thousand dollars, following application by the licensee and an opportunity for hearing before the banking board, in such amounts as necessary up to the amount provided in subsection (1)(a) of this section to protect purchasers of ~~exchange~~ MONEY TRANSMISSION.

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

SECTION 5. In Colorado Revised Statutes, 11-110-111, **amend** (1)(a) and (2)(c) as follows:

11-110-111. Examination - fee - financial statements and reports to commissioner - change in control - penalties. (1) (a) The commissioner may examine the books and records of a licensee using risk-based criteria and considering other available regulatory mechanisms as directed by the banking board; shall make and file in the office of the commissioner a correct report in detail disclosing the results of the examination; and shall mail a copy of the report to the licensee examined. If the licensee's records are located outside this state, the licensee shall, at the option of the licensee, either make them available to the commissioner at a convenient location within this state or pay the reasonable and necessary expenses for the commissioner or the commissioner's representative to examine them at the place where they are maintained. The commissioner may designate representatives, including comparable officials of the state in which the records are located, to inspect them on behalf of the commissioner. For the examination, the commissioner shall charge a fee in an amount set by the banking board pursuant to section 11-102-104 (11). If any licensee refuses to permit the commissioner to make an examination, the licensee shall be subject to such penalty as the commissioner may assess, not in excess of one ~~hundred~~ THOUSAND dollars for each day ~~any such~~ THE refusal ~~shall continue~~ CONTINUES.

(2)(c) If any licensee fails to submit any statement or report to the commissioner as required by this subsection (2), the licensee shall pay to the commissioner a penalty of ~~two~~ SEVEN hundred fifty dollars for each ~~additional~~ day of delinquency as set by the banking board pursuant to section 11-102-104 (11); except that, if in the opinion of the banking board the delay is excusable for good cause shown, ~~no penalty shall be paid~~ THE LICENSEE IS NOT SUBJECT TO THE PENALTY.

SECTION 6. In Colorado Revised Statutes, 11-110-107, **amend** (1) introductory portion and (1)(e) as follows:

11-110-107. Application for license - rules. (1) Application for a license ~~shall~~

MUST be made in writing, under oath, to the banking board on such form as it may prescribe. The application ~~shall~~ MUST:

(e) (I) Contain a set of fingerprints for each of the owners, principal shareholders, principal members, directors, trustees, officers, or other managing officials, WHO MUST PAY THE ACTUAL COSTS OF THE RECORD CHECK.

(II) The commissioner shall ~~forward~~ PERFORM A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK OF THE PERSONS DESCRIBED IN SUBSECTION (1)(e)(I) OF THIS SECTION BY FORWARDING the fingerprints to EITHER the FEDERAL BUREAU OF INVESTIGATION OR THE Colorado bureau of investigation. ~~for the purpose of obtaining a fingerprint-based criminal history record check.~~

(III) Upon receipt of fingerprints and payment for the costs, the Colorado bureau of investigation shall conduct a state and national fingerprint-based criminal history record check utilizing records of the Colorado bureau of investigation and the federal bureau of investigation. THE COLORADO BUREAU OF INVESTIGATION SHALL RETURN THE RESULTS OF ITS CRIMINAL HISTORY RECORD CHECK TO THE BOARD, AND the board ~~shall be~~ is the authorized agency to receive information regarding the result of any national criminal history record check. ~~Only the actual costs of the record check shall be borne by the applicant~~ THE RESULTS OF THE FEDERAL BUREAU OF INVESTIGATION'S CRIMINAL HISTORY RECORD CHECK.

SECTION 7. In Colorado Revised Statutes, 11-110-201, **repeal** (1)(b) as follows:

11-110-201. Agent information - rules. (1) A money transmitter licensed pursuant to part 1 of this article 110 shall annually send the following information to the banking board on such form as it may prescribe:

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

SECTION 8. In Colorado Revised Statutes, 11-110-119, **add** (1)(d) as follows:

11-110-119. Civil remedies - restraining orders - cease-and-desist orders - injunctions. (1) (d) (I) (A) IF THE COMMISSIONER HAS CREDIBLE EVIDENCE THAT A PERSON IS VIOLATING OR HAS VIOLATED THIS ARTICLE 110 AND THE VIOLATION CAUSES AN IMMINENT RISK OF HARM TO THE PUBLIC, THE COMMISSIONER MAY ISSUE AN ORDER TO CEASE AND DESIST FROM THE VIOLATION. THE ORDER MUST SET FORTH THE STATUTES AND RULES ALLEGED TO HAVE BEEN VIOLATED, THE FACTS ALLEGED TO HAVE CONSTITUTED THE VIOLATION, AND THE REQUIREMENT THAT VIOLATIONS OR UNLICENSED PRACTICE IMMEDIATELY CEASE.

(B) WITHIN TEN DAYS AFTER SERVICE OF THE ORDER TO CEASE AND DESIST

PURSUANT TO SUBSECTION (1)(d)(I)(A) OF THIS SECTION, THE RESPONDENT MAY REQUEST A HEARING ON THE QUESTION OF WHETHER A VIOLATION OF THIS ARTICLE 110 HAS OCCURRED.

(II) (A) IF THE COMMISSIONER HAS CREDIBLE EVIDENCE THAT A PERSON IS VIOLATING OR HAS VIOLATED THIS ARTICLE 110, THE COMMISSIONER MAY ISSUE AN ORDER TO SHOW CAUSE AS TO WHY THE COMMISSIONER SHOULD NOT ISSUE A FINAL ORDER DIRECTING THE PERSON TO CEASE AND DESIST FROM THE UNLAWFUL ACT OR UNLICENSED PRACTICE. THE COMMISSIONER SHALL PROMPTLY NOTIFY THE PERSON OF THE ISSUANCE OF THE ORDER TO SHOW CAUSE AND SHALL INCLUDE IN THE NOTICE A COPY OF THE ORDER AND THE FACTUAL AND LEGAL BASIS FOR THE ORDER.

(B) IF THE COMMISSIONER REASONABLY FINDS FOLLOWING A HEARING THAT THE PERSON AGAINST WHOM THE COMMISSIONER ISSUED THE ORDER TO SHOW CAUSE IS ACTING OR HAS ACTED WITHOUT THE REQUIRED LICENSE OR HAS OR IS ABOUT TO ENGAGE IN ACTS OR PRACTICES CONSTITUTING VIOLATIONS OF THIS ARTICLE 110, THE COMMISSIONER MAY ISSUE A FINAL CEASE-AND-DESIST ORDER DIRECTING THE PERSON TO CEASE AND DESIST FROM FURTHER UNLAWFUL ACTS OR PRACTICES.

(C) THE COMMISSIONER SHALL PROVIDE NOTICE OF THE FINAL CEASE-AND-DESIST ORDER WITHIN TEN CALENDAR DAYS AFTER THE REQUIRED HEARING. THE FINAL ORDER IS EFFECTIVE WHEN ISSUED AND CONSTITUTES A FINAL ORDER FOR PURPOSES OF JUDICIAL REVIEW.

(III) THE COMMISSIONER SHALL TRANSMIT NOTICES AND ORDERS REQUIRED BY THIS SUBSECTION (1)(d) BY PERSONAL SERVICE, BY FIRST-CLASS UNITED STATES MAIL, POSTAGE PREPAID, OR BY OTHER REASONABLY PRACTICABLE MEANS UPON ANY PERSON AGAINST WHOM THE ORDER IS ISSUED. PERSONAL SERVICE OR PROOF OF RECEIPT OF MAILING OF A NOTICE OR ORDER OR OTHER REASONABLY EFFECTIVE DOCUMENTATION OF RECEIPT CONSTITUTES NOTICE TO THE PERSON OF THE EXISTENCE AND CONTENTS OF THE NOTICE OR ORDER.

(IV) ANY HEARING REQUIRED BY THIS SUBSECTION (1)(d) AND THE RELATED PROCEDURES ARE GOVERNED BY ARTICLE 4 OF TITLE 24.

SECTION 9. In Colorado Revised Statutes, **amend** 11-110-106 as follows:

11-110-106. Exemptions. ~~Nothing in~~ This article 110 ~~shall~~ DOES NOT apply: To departments or agencies of the United States of America; ~~or~~ to any state or municipal government; or to corporations organized under the general banking, savings and loan, or credit union laws of this state, OF OTHER STATES, or of the United States. ~~or to the receipt of money by an incorporated telegraph or cable company at any office or agency thereof for immediate transmission by telegraph or cable.~~

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SECTION 10. In Colorado Revised Statutes, 11-110-107, **amend** (1)(a) as follows:

11-110-107. Application for license. (1) Application for a license shall be made in writing, under oath, to the banking board on such form as it may prescribe. The application shall:

(a) State the name of the applicant and the address of ~~his or her~~ THE APPLICANT'S principal office;

SECTION 11. In Colorado Revised Statutes, 11-110-109, **amend** (1), (2), and (3) as follows:

11-110-109. Issuance of license. (1) Upon the filing of an application, the commissioner shall investigate the applicant. The applicant shall pay for the cost of the investigation. If the board finds that the applicant is of good moral character and financially responsible and can comply with this article 110, the board shall approve the application and notify the applicant in writing that ~~its~~ THE approval expires six months after the approval date. Once the approved applicant has notified the board that ~~he or she~~ THE APPLICANT is prepared to commence operations in Colorado, posted the required bond, and paid the license fee, the board shall issue to the applicant a license to engage in the business of money transmission subject to this article 110.

(2) ~~No license~~ THE COMMISSIONER shall ~~be issued~~ NOT ISSUE A LICENSE to an applicant, if a natural person, unless ~~he or she~~ THE APPLICANT is over twenty-one years of age; or, if a partnership or syndicate, unless each of the partners is over twenty-one years of age; or, if a joint stock association, common law trust, unincorporated company or association, or corporation, unless each of the officers, directors, trustees, or other managing officials is over twenty-one years of age.

(3) If the board denies an application, the board shall, within thirty days ~~thereafter~~ AFTER THE DENIAL, prepare and file in its office a written order of denial, which must contain the board's findings and reasons supporting the denial. ~~and,~~ Within ten days after filing the order OF DENIAL, the board shall notify the applicant and send ~~him or her~~ THE APPLICANT a copy of the order. The applicant may request a hearing by the board by submitting a written request to the board within sixty days after receiving notice as specified in section 24-4-104 (9), and, if so requested, the board shall hold a hearing as specified in section 24-4-105.

SECTION 12. In Colorado Revised Statutes, 11-110-115, **amend** (3) as follows:

11-110-115. Revocation or surrender of license. (3) A licensee may surrender any license by delivering to the banking board written notice that ~~he or she~~ THE PERSON surrenders the license, but the surrender ~~shall~~ DOES not:

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(a) Affect the licensee's civil or criminal liability for acts committed prior to the surrender; ~~or~~

(b) Affect the liability on any bond; or

(c) Entitle the licensee to a return of any part of any license fee.

SECTION 13. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 3, 2024