

2015 Bill Text SC H.B. 4554

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Reporter

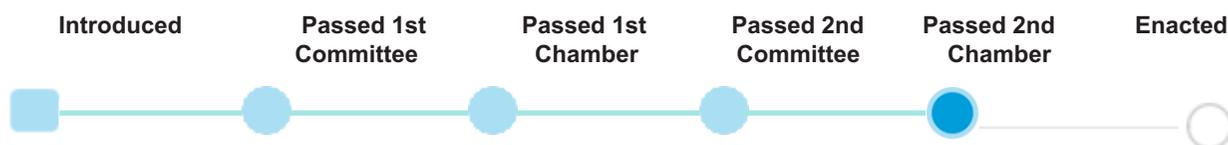
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THE STATE OF SOUTH CAROLINA BILL TEXT > SOUTH CAROLINA 121ST SOUTH CAROLINA GENERAL ASSEMBLY - 2ND REGULAR SESSION > HOUSE BILL 4554

Progress



Low chance to pass next stage | [Legislative Outlook in detail](#)



Synopsis

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

Text

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

South Carolina Anti-Money Laundering Act

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

"CHAPTER 11

South Carolina Anti-Money Laundering Act

Article 1

General Provisions

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

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

- (1) 'Applicant' means a person that files an application for a license pursuant to this act.
- (2) 'Authorized delegate' means a person a licensee designates to provide money services on behalf of the licensee.
- (3) 'Bank' means an institution organized under federal or state law which:
 - (a) accepts demand deposits or deposits that the depositor may use for payment to third parties and which engages in the business of making commercial loans; or

- (b) engages in credit card operations and maintains only one office that accepts deposits, does not accept demand deposits or deposits that the depositor may use for payments to third parties, does not accept a savings or time deposit less than one hundred thousand dollars, and does not engage in the business of making commercial loans.
- (4) 'Commissioner' means the South Carolina Attorney General.
- (5) 'Control' means:
 - (a) ownership of, or the power to vote, directly or indirectly, at least twenty-five percent of a class of voting securities or voting interests of a licensee or person in control of a licensee;
 - (b) power to elect a majority of executive officers, managers, directors, trustees, or other persons exercising managerial authority of a licensee or person in control of a licensee; or
 - (c) power to exercise directly or indirectly, a controlling influence over the management or policies of a licensee or person in control of a licensee.
- (6) 'Currency exchange' means receipt of revenues from the exchange of money of one government for money of another government.
- (7) 'Executive officer' means a president, chairperson of the executive committee, chief financial officer, responsible individual, or other individual who performs similar functions.
- (8) 'Licensee' means a person licensed pursuant to this act.
- (9) 'Monetary value' means a medium of exchange, whether or not redeemable in money.
- (10) 'Money' means a medium of exchange that is authorized or adopted by the United States or a foreign government. The term includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more governments.
- (11) 'Money services' means money transmission or currency exchange.
- (12) 'Money transmission' means selling or issuing payment instruments, stored value, or receiving money or monetary value for transmission. The term does not include the provision solely of delivery, online or telecommunications services, or network access.
- (13) 'Outstanding', with respect to a payment instrument, means issued or sold by or for the licensee and reported as sold but not yet paid by or for the licensee.
- (14) 'Payment instrument' means a check, draft, money order, traveler's check, or other instrument for the transmission or payment of money or monetary value, whether or not negotiable. The term does not include a credit card voucher, letter of credit, or instrument that is redeemable by the issuer in goods or services.
- (15) 'Person' means an individual, corporation, business trust, estate, trust, partnership, limited-liability company, association, joint venture, government, governmental subdivision, agency or instrumentality, public corporation, or another legal or commercial entity.
- (16) 'Record' means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- (17) 'Responsible individual' means an individual who is employed by a licensee and has principal managerial authority over the provision of money services by the licensee in this State.
- (18) 'State' means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or a territory or insular possession subject to the jurisdiction of the United States.
- (19) 'Stored value' means monetary value that is evidenced by an electronic record.

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

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

- (1) the United States or a department, agency, or instrumentality of the United States;
- (2) money transmission by the United States Postal Service or by a contractor on behalf of the United States Postal Service;
- (3) a state, county, city, or another governmental agency or governmental subdivision of a state;
- (4) a bank, bank holding company, office of an international banking corporation, branch of a foreign bank, corporation organized pursuant to the Bank Service Corporation Act, [12 U.S.C. Section 1861-1867](#) (Supp. V 1999), or corporation organized under the Edge Act, [12 U.S.C. Section 611-633](#) (1994 & Supp. V 1999), under the laws of a state or the United States if it does not issue, sell, or provide payment instruments or stored value through an authorized delegate who is not such a person;
- (5) electronic funds transfer of governmental benefits for a federal, state, county, or governmental agency by a contractor on behalf of the United States or a department, agency, or instrumentality of the United States, or a state or governmental subdivision, agency, or instrumentality of a state;
- (6) a board of trade designated as a contract market under the federal Commodity Exchange Act, [7 U.S.C. Section 1-25](#) (1994), or a person that, in the ordinary course of business, provides clearance and settlement services for a board of trade to the extent of its operation as or for a board of trade;
- (7) a registered futures commission merchant under the federal commodities laws to the extent of its operation as a futures commission merchant;
- (8) a person who provides clearance or settlement services pursuant to a registration as a clearing agency or an exemption from that registration granted under the federal securities laws to the extent of its operation as a provider of clearance or settlement services;
- (9) an operator of a payment system to the extent that it provides processing, clearing, or settlement services, between or among persons excluded by this section, in connection with wire transfers, credit card transactions, debit card transactions, stored-value transactions, automated clearing house transfers, similar funds transfers;
- (10) a person registered as a securities broker-dealer under federal or state securities laws to the extent of his operation as a securities broker-dealer; or
- (11) a credit union regulated and insured by the National Credit Union Association.

Article 2

Money Transmission Licenses

Section 35-11-200.

- (A) A person may not engage in the business of money transmission or advertise, solicit, or hold himself out as providing money transmission unless the person is:
- (1) licensed under this chapter or approved to engage in money transmission pursuant to Section 35-11-210;
 - (2) an authorized delegate of a person licensed pursuant to this article; or

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

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

Section 35-11-205.

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

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

- (1) the legal name, residential and business addresses of the applicant, and any fictitious or trade name used by the applicant in conducting its business;
- (2) a list of any criminal convictions of the applicant and any material litigation in which the applicant has been involved in the ten-year period next preceding the submission of the application;
- (3) a description of any money services previously provided by the applicant and the money services that the applicant seeks to provide in this State;
- (4) a list of the applicant's proposed authorized delegates and the locations in this State where the applicant and the applicant's authorized delegates propose to engage in money transmission or provide other money services;
- (5) a list of other states in which the applicant is licensed to engage in money transmission or provide other money services and any license revocations, suspensions, or other disciplinary action taken against the applicant in another state;
- (6) information concerning a bankruptcy or receivership proceeding affecting the licensee;
- (7) a sample form of contract for authorized delegates, if applicable, and a sample form of payment instrument or instrument upon which stored value is recorded, if applicable;
- (8) the name and address of any bank through which the applicant's payment instruments and stored value will be paid;
- (9) a description of the source of money and credit to be used by the applicant to provide money services; and
- (10) other information the commissioner reasonably requires with respect to the applicant.

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

- (1) the date of the applicant's incorporation or formation and state or country of incorporation or formation;
- (2) if applicable, a certificate of good standing from the state or country in which the applicant is incorporated or formed;
- (3) a brief description of the structure or organization of the applicant, including a parent entity or subsidiary of the applicant, and whether a parent entity or subsidiary is publicly traded;
- (4) the legal name, a fictitious or trade name, all business and residential addresses, and the employment, in the ten-year period next preceding the submission of the application of each executive officer, manager, director, or person who has control of the applicant;

- (5) a list of criminal convictions and material litigation in which an executive officer, a manager, director, or person in control of, the applicant has been involved in the ten-year period next preceding the submission of the application;
 - (6) a copy of the applicant's audited financial statements for the most recent fiscal year and, if available, for the two-year period next preceding the submission of the application;
 - (7) a copy of the applicant's unconsolidated financial statements for the current fiscal year, whether audited or not, and, if available, for the two-year period next preceding the submission of the application;
 - (8) if the applicant is publicly traded, a copy of the most recent report filed with the United States Securities and Exchange Commission pursuant to Section 13 of the federal Securities Exchange Act of 1934, [15 U.S.C. Section 78m](#) (1994 & Supp. V 1999);
 - (9) if the applicant is a wholly owned subsidiary of a:
 - (a) corporation publicly traded in the United States, a copy of audited financial statements for the parent corporation for the most recent fiscal year or a copy of the parent corporation's most recent report filed pursuant to Section 13 of the federal Securities Exchange Act of 1934, [15 U.S.C. Section 78m](#) (1994 & Supp. V 1999); or
 - (b) corporation publicly traded outside the United States, a copy of similar documentation filed with the regulator of the parent corporation's domicile outside the United States;
 - (10) if the applicant has a registered agent in this State, the name and address of the applicant's registered agent in this State; and
 - (11) other information the commissioner reasonably requires with respect to the applicant.
- (D) A nonrefundable application fee of one thousand five hundred dollars and a license fee of seven hundred fifty dollars must accompany an application for a license pursuant to this article. The license fee must be refunded if the application is denied.
- (E) The commissioner may waive one or more requirements of subsections (B) and (C) or permit an applicant to submit other information in lieu of the required information.

Section 35-11-210.

- (A) A person who is licensed to engage in money transmission in at least one other state, with the approval of the commissioner and in accordance with this section, may engage in money transmission and currency exchange in this State without being licensed pursuant to Section 35-11-205 if the:
- (1) state in which the person is licensed has enacted the Uniform Money Services Act or the commissioner determines that the money transmission laws of that state are substantially similar to those imposed by the law of this State;
 - (2) person submits to, and in the form required by, the commissioner:
 - (a) in a record, an application for approval to engage in money transmission and currency exchange in this State without being licensed pursuant to Section 35-11-205;
 - (b) a nonrefundable fee of one thousand dollars; and
 - (c) a certification of license history in the other state.
- (B) When an application for approval pursuant this section is complete, the commissioner shall promptly notify the applicant in a record, of the date on which the request was determined to be complete and:
- (1) the commissioner shall approve or deny the request within one hundred twenty days after that date; or

- (2) if the request is not approved or denied within one hundred twenty days after that date the:
 - (a) request is approved; and
 - (b) approval takes effect as of the first business day after expiration of the one hundred twenty-day period.
- (C) A person who engages in money transmission and currency exchange in this State pursuant to this section shall comply with the requirements of, and is subject to the sanctions provided in this chapter, as if the person were licensed pursuant to Section 35-11-220.

Section 35-11-215.

- (A) Except as otherwise provided in subsection (B), a surety bond, letter of credit, or other similar security acceptable to the commissioner in the amount of fifty thousand dollars plus ten thousand dollars for each location, not exceeding a total addition of two hundred fifty thousand dollars, must accompany an application for a license.
- (B) Security must be in a form satisfactory to the commissioner and payable to the State for the benefit of a claimant against the licensee to secure the faithful performance of the obligations of the licensee with respect to money transmission.
- (C) The aggregate liability on a surety bond may not exceed the principal sum of the bond. A claimant against a licensee may maintain an action on the bond, or the commissioner may maintain an action on behalf of the claimant.
- (D) A surety bond must cover claims for so long as the commissioner specifies, but for at least five years after the licensee ceases to provide money services in this State. However, the commissioner may permit the amount of security to be reduced or eliminated before the expiration of that time to the extent the amount of the licensee's payment instruments or stored-value obligations outstanding in this State is reduced. The commissioner may permit a licensee to substitute another form of security acceptable to the commissioner for the security effective at the time the licensee ceases to provide money services in this State.
- (E) In lieu of the security prescribed in this section, an applicant for a license or a licensee may provide security in a form prescribed by the commissioner.
- (F) The commissioner may increase the amount of security required to a maximum of one million dollars if the financial condition of a licensee so requires, as evidenced by reduction of net worth, financial losses, or other relevant criteria.

Section 35-11-220.

- (A) When an application is filed pursuant to this article, the commissioner shall investigate the applicant's financial condition and responsibility, financial and business experience, character, and general fitness. The commissioner may conduct an on-site investigation of the applicant, the reasonable cost of which the applicant must pay. The commissioner shall issue a license to an applicant pursuant to this article if the commissioner finds that all of the following conditions have been fulfilled:
 - (1) the applicant has complied with Sections 35-11-205, 35-11-215, and 35-11-230; and
 - (2) the financial condition and responsibility, financial and business experience, competence, character, and general fitness of the applicant; and the competence, experience, character, and general fitness of the executive officers, managers, directors, and persons in control of the applicant indicate that it is in the interest of the public to permit the applicant to engage in money transmission.
- (B) When an application for an original license pursuant to this article is complete, the commissioner promptly shall notify the applicant in a record of the date on which the application was determined to be complete and:

- (1) the commissioner shall approve or deny the application within one hundred twenty days after that date; or
- (2) if the application is not approved or denied within one hundred twenty days after that date the:
 - (a) application is considered approved; and
 - (b) commissioner shall issue the license pursuant to this article, to take effect as of the first business day after expiration of the one hundred twenty-day period.
- (C) The commissioner may for good cause extend the application period.
- (D) An applicant whose application is denied by the commissioner pursuant to this article may appeal, within thirty days after receipt of the notice of the denial, from the denial and request a hearing.

Section 35-11-225.

- (A) A person licensed pursuant to this article shall pay an annual renewal fee of seven hundred fifty dollars no later than thirty days before the anniversary of the issuance of the license or, if the last day is not a business day, on the next business day.
- (B) A licensee under this article shall submit a renewal report with the renewal fee, in a form and in a medium prescribed by the commissioner. The renewal report must state or contain:
 - (1) a copy of the licensee's most recent audited annual financial statement or, if the licensee is a wholly owned subsidiary of another corporation, the most recent audited consolidated annual financial statement of the parent corporation or the licensee's most recent audited consolidated annual financial statement;
 - (2) the number and monetary amount of payment instruments and stored value sold by the licensee in this State which have not been included in a renewal report, and the monetary amount of payment instruments and stored value currently outstanding;
 - (3) a description of each material change in information submitted by the licensee in its original license application which has not been reported to the commissioner on a required report;
 - (4) a list of the licensee's permissible investments and a certification that the licensee continues to maintain permissible investments pursuant to the requirements set forth in Sections 35-11-600 and 35-11-605;
 - (5) proof that the licensee continues to maintain adequate security as required by Section 35-11-130; and
 - (6) a list of the locations in this State where the licensee or an authorized delegate of the licensee engages in money transmission or provides other money services.
- (C) If a licensee does not file a renewal report or pay its renewal fee by the renewal date or an extension of time granted by the commissioner, the commissioner shall send the licensee a notice of suspension. Unless the licensee files the report and pays the renewal fee before expiration of ten days after the notice is sent, the licensee's license is suspended ten days after the commissioner sends the notice of suspension. The suspension must be lifted if, within twenty days after its license is suspended, the licensee:
 - (1) files the report and pays the renewal fee; and
 - (2) pays one hundred dollars for each day after suspension that the commissioner did not receive the renewal report and the renewal fee.
- (D) The commissioner for good cause may grant an extension of the renewal date.

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

Article 3

Currency Exchange Licenses

Section 35-11-300.

- (A) A person may not engage in currency exchange or advertise, solicit, or hold himself out as providing currency exchange for which the person receives revenues equal or greater than five percent of total revenues unless the person is:
- (1) licensed pursuant to this chapter;
 - (2) licensed for money transmission pursuant to Article 2, or approved to engage in money transmission pursuant to Section 35-11-210;
 - (3) an authorized delegate of a person licensed pursuant to Article 2; or
 - (4) an authorized delegate of a person approved to engage in money transmission pursuant to Section 35-11-210.
- (B) A license issued pursuant to this chapter is not transferable or assignable.

Section 35-11-305.

- (A) A person applying for a license pursuant to this article shall do so in a form and in a medium prescribed by the commissioner. The application shall state or contain:
- (1) the legal name and residential and business addresses of the applicant, if the applicant is an individual or, if the applicant is not an individual, the name of each partner, executive officer, manager, and director;
 - (2) the location of the principal office of the applicant;
 - (3) complete addresses of other locations in this State where the applicant proposes to engage in currency exchange, including all limited stations and mobile locations;
 - (4) a description of the source of money and credit to be used by the applicant to engage in currency exchange; and;
 - (5) other information the commissioner reasonably requires with respect to the applicant, but not more than the commissioner may require pursuant to Article 2.
- (B) A nonrefundable application fee of one thousand five hundred dollars and a license fee of seven hundred fifty dollars must accompany an application for a license pursuant to this subchapter. The license fee must be refunded if the application is denied.

Section 35-11-310.

- (A) When a person applies for a license pursuant to this article, the commissioner shall investigate the applicant's financial condition and responsibility, financial and business experience, character, and general fitness. The commissioner may conduct an on-site investigation of the applicant, the reasonable cost of which the applicant must pay. The commissioner shall issue a license to an applicant pursuant to this article if the commissioner finds that all of the following conditions have been fulfilled:
- (1) the applicant has complied with Section 35-11-305; and
 - (2) the financial condition and responsibility, financial and business experience, competence, character, and general fitness of the applicant; and the competence, experience, character, and general fitness of the executive officers, managers, directors, and persons in control of the applicant indicate that it is in the interest of the public to permit the applicant to engage in currency exchange.

- (B) When an application for an original license pursuant to this article is complete, the commissioner promptly shall notify the applicant in a record of the date on which the application was determined to be complete and:
 - (1) the commissioner shall approve or deny the application within one hundred twenty days after that date; or
 - (2) if the application is not approved or denied within one hundred twenty days after that date the:
 - (a) application is considered approved; and
 - (b) commissioner shall issue the license pursuant to this article, to take effect as of the first business day after expiration of the period.
- (C) The commissioner may for good cause extend the application period.
- (D) An applicant whose application is denied a license by the commissioner pursuant to this article may appeal, within thirty days after receipt of the notice of the denial, from the denial and request a hearing.

Section 35-11-315.

- (A) A person licensed pursuant to this article shall pay a biennial renewal fee of seven hundred fifty dollars no later than thirty days before each biennial anniversary of the issuance of the license or, if the last day is not a business day, on the next business day.
- (B) A person licensed pursuant to this article shall submit a renewal report with the renewal fee, in a form and in a medium prescribed by the commissioner. The renewal report must state or contain a:
 - (1) description of each material change in information submitted by the licensee in its original license application which has not been reported to the commissioner on a required report; and
 - (2) list of the locations in this State where the licensee or an authorized delegate of the licensee engages in currency exchange, including limited stations and mobile locations.
- (C) If a licensee does not file a renewal report and pay its renewal fee by the renewal date or an extension of time granted by the commissioner, the commissioner shall send the licensee a notice of suspension. Unless the licensee files the report and pays the renewal fee before expiration of ten days after the notice is sent, the licensee's license is suspended ten days after the commissioner sends the notice of suspension.
- (D) The commissioner for good cause may grant an extension of the renewal date.

Article 4

Authorized Delegates

Section 35-11-400.

- (A) In this section, 'remit' means to make direct payments of money to a licensee or its representative authorized to receive money or to deposit money in a bank in an account specified by the licensee.
- (B) A contract between a licensee and an authorized delegate must require the authorized delegate to operate in full compliance with this chapter. For such contracts initiated on or after the effective date of this act, the licensee shall provide to each authorized delegate information sufficient for compliance with this chapter.
- (C) An authorized delegate shall remit all money owing to the licensee in accordance with the terms of the contract between the licensee and the authorized delegate.

- (D) If a license is suspended or revoked or a licensee does not renew its license, the commissioner shall notify all authorized delegates of the licensee whose names are in a record filed with the commissioner of the suspension, revocation, or nonrenewal. After notice is sent or publication is made, an authorized delegate shall immediately cease to provide money services as a delegate of the licensee.
- (E) An authorized delegate may not provide money services outside the scope of activity permissible under the contract between the authorized delegate and the licensee, except activity in which the authorized delegate is authorized to engage in pursuant to Article 2 of this chapter. An authorized delegate of a licensee holds in trust for the benefit of the licensee all money net of fees received from money transmission.
- (F) An authorized delegate may not use a subdelegate to conduct money services on behalf of a licensee.

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

Article 5

Examinations, Reports, and Records

Section 35-11-500.

- (A) The commissioner may conduct an annual examination of a licensee or of any of the licensee's authorized delegates on a forty-five-day notice in a record to the licensee.
- (B) The commissioner may examine a licensee or its authorized delegate, at any time, without notice, if the commissioner has reason to believe that the licensee or authorized delegate is engaging in an unsafe or unsound practice or has violated or is violating this chapter or a rule adopted or an order issued pursuant to this chapter.
- (C) If the commissioner concludes that an on-site examination is necessary pursuant to subsection (A), the licensee shall pay the reasonable cost of the examination.
- (D) Information obtained during an examination pursuant to this chapter may be disclosed only as provided in Section 35-11-530.

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

Section 35-11-510.

- (A) A licensee shall file with the commissioner within fifteen business days any material changes in information provided in a licensee's application as prescribed by the commissioner.
- (B) A licensee shall file with the commissioner within forty-five days after the end of each fiscal quarter a current list of all authorized delegates, and locations in this State where the licensee or an authorized delegate of the licensee provides money services, including limited stations and mobile locations. The licensee shall state the name and street address of each location and authorized delegate.
- (C) A licensee shall file a report with the commissioner within three business days after the licensee has reason to know of the occurrence of any of the following events:
 - (1) the filing of a petition by or against the licensee under the United States Bankruptcy Code, 11 U.S.C. Section 101-110 (1994 & Supp. V. 1999), for bankruptcy or reorganization;

- (2) the filing of a petition by or against the licensee for receivership, the commencement of another judicial or administrative proceeding for its dissolution or reorganization, or the making of a general assignment for the benefit of its creditors;
- (3) the commencement of a proceeding to revoke or suspend its license in a state or country in which the licensee engages in business or is licensed;
- (4) the cancellation or other impairment of the licensee's bond or other security;
- (5) a charge or conviction of the licensee or of an executive officer, manager, director, or person in control of the licensee for a felony; or
- (6) a charge or conviction of an authorized delegate for a felony.

Section 35-11-515.

- (A) A licensee shall:
 - (1) give the commissioner notice in a record of a proposed change of control within fifteen days after learning of the proposed change of control;
 - (2) request approval of the acquisition; and
 - (3) submit a nonrefundable fee of one thousand dollars with the notice.
- (B) After review of a request for approval pursuant to subsection (A), the commissioner may require the licensee to provide additional information concerning the proposed persons in control of the licensee. The additional information must be limited to the same types required of the licensee or persons in control of the licensee as part of its original license or renewal application.
- (C) The commissioner shall approve a request for change of control pursuant to subsection (A) if, after investigation, the commissioner determines that the person or group of persons requesting approval has the competence, experience, character, and general fitness to operate the licensee or person in control of the licensee in a lawful and proper manner and that the public interest will not be jeopardized by the change of control.
- (D) When an application for a change of control pursuant to this article is complete, the commissioner shall notify the licensee in a record of the date on which the request was determined to be complete and:
 - (1) the commissioner shall approve or deny the request within one hundred twenty days after that date; or
 - (2) if the request is not approved or denied within one hundred twenty days after that date:
 - (a) the request is considered approved; and
 - (b) the commissioner shall permit the change of control under this section to take effect as of the first business day after expiration of the period.
- (E) The commissioner, by rule of order, may exempt a person from any of the requirements of subsection (A)(2) and (3) if it is in the public interest to do so.
- (F) Subsection (A) does not apply to a public offering of securities.
- (G) Before filing a request for approval to acquire control of a licensee or person in control of a licensee, a person may request in a record a determination from the commissioner as to whether the person would be considered a person in control of a licensee upon consummation of a proposed transaction. If the commissioner determines that the person would not be a person in control of a licensee, the commissioner shall enter an order to that effect and the proposed person and transaction is not subject to the requirements of subsections (A) through (C).

Section 35-11-520.

- (A) A licensee shall maintain the following records for determining its compliance with this act for at least three years:
 - (1) a record of each payment instrument or stored-value obligation sold;
 - (2) a general ledger posted at least monthly containing all asset, liability, capital, income, and expense accounts;
 - (3) bank statements and bank reconciliation records;
 - (4) records of outstanding payment instruments and stored-value obligations;
 - (5) records of each payment instrument and stored-value obligation paid within the three-year period;
 - (6) a list of the last known names and addresses of all of the licensee's authorized delegates; and
 - (7) other records the commissioner reasonably requires by rule.
- (B) The items specified in subsection (A) may be maintained in any form of record.
- (C) Records may be maintained outside this State if they are made accessible to the commissioner on a seven business-day notice that is sent in a record.
- (D) All records maintained by the licensee as required in subsections (A) through (C) are open to inspection by the commissioner pursuant to Section 35-11-500.

Section 35-11-525.

- (A) A licensee and an authorized delegate shall file with the commissioner all reports required by federal currency reporting, record keeping, and suspicious transaction reporting requirements as set forth in [31 U.S.C. Section 5311](#) (1994), 31 C.F.R. Section 103 (2000) and other federal and state laws pertaining to money laundering.
- (B) The timely filing of a complete and accurate report required pursuant to subsection (A) with the appropriate federal agency is in compliance with the requirements of subsection (A), unless the commissioner notifies the licensee that reports of this type are not being regularly and comprehensively transmitted by the federal agency to the commissioner.

Section 35-11-530.

- (A) Unless otherwise specified in this section, all information filed with the Securities Commissioner shall be available for public inspection pursuant to rules promulgated by the commissioner consistent with state and federal law governing the disclosure of public information.
- (B) Except for reasonably segregable portions of information and records that by law would routinely be made available to a party other than an agency in litigation with the commissioner, the commissioner shall not publish or make available:
 - (1) information contained in reports, summaries, analyses, letters, or memoranda arising out of, in anticipation of, or in connection with an investigation, examination, or inspection of the books and records of a person;
 - (2) interagency or intra-agency memoranda or letters, including without limitation:
 - (a) records that reflect discussions between or consideration by the commissioner or members of the commissioner's staff, or both, of an action taken or proposed to be taken by the commissioner or by a member of the commissioner's staff; and
 - (b) reports, summaries, analyses, conclusions, or any other work product of the commissioner or of attorneys, accountants, analysts, or other members of the commissioner's staff, prepared in the course of an:

- (i) inspection of the books or records of a person whose affairs are regulated by the commissioner; or
 - (ii) examination, investigation, or litigation conducted by or on behalf of the commissioner;
- (3) personnel files, medical files, and similar files if disclosure would constitute a clearly unwarranted invasion of personal privacy, including without limitation:
 - (a) information concerning all employees of the South Carolina Securities Division and all persons subject to regulation by the division; and
 - (b) personal information reported to the commissioner under the division's rules concerning registration about employees of applicants, licensees, or their agents;
- (4)
 - (a) investigatory records compiled for law enforcement purposes to the extent that production of the records would:
 - (i) interfere with enforcement proceedings;
 - (ii) deprive a person of a right to a fair trial or an impartial adjudication; or
 - (iii) disclose the identity of a confidential source;
 - (b) the commissioner also may withhold investigatory records that would:
 - (i) constitute an unwarranted invasion of personal privacy;
 - (ii) disclose investigative techniques and procedures; or
 - (iii) endanger the life or physical safety of law enforcement personnel;
 - (c) as used in this section, 'investigatory records' includes:
 - (i) all documents, records, transcripts, correspondence, and related memoranda and work products concerning examinations and other investigations and related litigation as authorized by law that pertain to or may disclose the possible violation by a person of a provision of the statutes or rules administered by the commissioner; and
 - (ii) all written communications from or to a person confidentially complaining or otherwise furnishing information about a possible violation, as well as all correspondence and memoranda in connection with the confidential complaint or information;
- (5) information contained in or related to examinations, operating reports, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions, check issuers, money transmitters, money services providers, or money service businesses;
- (6)
 - (a) financial records of an applicant, licensee, or the agent of an applicant or licensee obtained during or as a result of an examination by the commissioner;
 - (b) when a record is required to be filed pursuant to this article with the commissioner as part of an application for license, annual renewal, or otherwise, the record, including financial statements prepared by certified public accountants, must be public information unless sections of the information are bound separately and are marked 'confidential' by the applicant, licensee, or agent upon filing;

- (c) information pursuant to subitem (b) bound separately and marked 'confidential' must be considered nonpublic until ten days after the commissioner has given the applicant, licensee, or agent notice that an order will be entered finding the material public information.
 - (d) an applicant, licensee, or agent may seek an injunction from the Richland County Circuit Court ordering the commissioner to withhold the information as nonpublic pending a final order from a court of competent jurisdiction if the order of the commissioner pursuant to subitem (c) is appealed under applicable law;
- (7) trade secrets obtained from a person; or
 - (8) another record that is required to be closed to the public and is not considered open to public inspection under other law.
- (C) The commissioner may disclose information not otherwise subject to disclosure pursuant to subsection (A) to representatives of state or federal agencies who promise in a record that they will maintain the confidentiality of the information; or the commissioner finds that the release is reasonably necessary for the protection of the public and in the interests of justice, and the licensee has been given previous notice by the commissioner of the commissioner's intent to release the information.
- (D) This section does not prohibit the commissioner from disclosing to the public a list of persons licensed under this chapter or the aggregated financial data concerning those licensees.

Article 6

Permissible Investments

Section 35-11-600.

- (A) A licensee shall maintain at all times permissible investments that have a market value computed in accordance with generally accepted accounting principles of not less than the aggregate amount of all of its outstanding payment instruments and stored value obligations issued or sold in all states and money transmitted from all states by the licensee.
- (B) The commissioner, with respect to a licensee, may limit the extent to which a type of investment within a class of permissible investments may be considered a permissible investment, except for money and certificates of deposit issued by a bank. The commissioner by rule may prescribe or by order allow other types of investments that the commissioner determines to have a safety substantially equivalent to other permissible investments.
- (C) Permissible investments, even if commingled with other assets of the licensee, are held in trust for the benefit of the purchasers and holders of the licensee's outstanding payment instruments and stored-value obligations in the event of bankruptcy or receivership of the licensee.

Section 35-11-605.

- (A) Except to the extent otherwise limited by the commissioner pursuant to Section 35-11-600, the following investments are permissible pursuant to Section 35-11-600:
 - (1) cash, a certificate of deposit, or senior debt obligation of an insured depository institution, as defined in Section 3 of the Federal Deposit Insurance Act, [12 U.S.C. Section 1813](#) (1994 & Supp. V 1999);
 - (2) banker's acceptance or bill of exchange that is eligible for purchase upon endorsement by a member bank of the Federal Reserve System and is eligible for purchase by a Federal Reserve Bank;
 - (3) an investment bearing a rating of one of the three highest grades as defined by a nationally recognized organization that rates securities;

- (4) an investment security that is an obligation of the United States or a department, agency, or instrumentality of the United States; an investment in an obligation that is guaranteed fully as to principal and interest by the United States; or an investment in an obligation of a State or a governmental subdivision, agency, or instrumentality of a state;
 - (5) receivables that are payable to a licensee from its authorized delegates, in the ordinary course of business, pursuant to contracts that are not past due or doubtful of collection if the aggregate amount of receivables under this item does not exceed twenty percent of the total permissible investments of a licensee and the licensee does not hold at one time receivables under this item in any one person aggregating more than ten percent of the licensee's total permissible investments; and
 - (6) a share or a certificate issued by an open-end management investment company that is registered with the United States Securities and Exchange Commission under the Investment Companies Act of 1940, [15 U.S.C. Section 80a-1-64](#) (1994 & Supp. V 1999), and whose portfolio is restricted by the management company's investment policy to investments specified in items (1) through (4).
- (B) The following investments are permissible pursuant to Section 35-11-600, but only to the extent specified:
- (1) an interest-bearing bill, note, bond, or debenture of a person whose equity shares are traded on a national securities exchange or on a national over-the-counter market, if the aggregate of investments under this item does not exceed twenty percent of the total permissible investments of a licensee and the licensee does not at one time hold investments under this item in any one person aggregating more than ten percent of the licensee's total permissible investments;
 - (2) a share of a person traded on a national securities exchange or a national over-the-counter market or a share or a certificate issued by an open-end management investment company that is registered with the United States Securities and Exchange Commission under the Investment Companies Act of 1940, [15 U.S.C. Section 80a-1-64](#) (1994 & Supp. V 1999), and whose portfolio is restricted by the management company's investment policy to shares of a person traded on a national securities exchange or a national over-the-counter market, if the aggregate of investments under this item does not exceed twenty percent of the total permissible investments of a licensee and the licensee does not at one time hold investments in any one person aggregating more than ten percent of the licensee's total permissible investments;
 - (3) a demand-borrowing agreement made to a corporation or a subsidiary of a corporation whose securities are traded on a national securities exchange if the aggregate of the amount of principal and interest outstanding under demand-borrowing agreements under this item does not exceed twenty percent of the total permissible investments of a licensee and the licensee does not at one time hold principal and interest outstanding under demand-borrowing agreements under this item with any one person aggregating more than ten percent of the licensee's total permissible investments; and
 - (4) another investment the commissioner designates, to the extent specified by the commissioner.
- (C) The aggregate of investments pursuant to subsection (B) may not exceed fifty percent of the total permissible investments of a licensee calculated pursuant to Section 35-11-600.

Article 7

Enforcement

Section 35-11-700.

- (A) The commissioner may suspend or revoke a license or order a licensee to revoke the designation of an authorized delegate if:
- (1) the licensee violates this chapter or a rule adopted or an order issued pursuant to this act;
 - (2) the licensee does not cooperate with an examination or investigation by the commissioner;
 - (3) the licensee engages in fraud, intentional misrepresentation, or gross negligence;
 - (4) an authorized delegate is convicted of a violation of a state or federal anti-money laundering statute, or violates a rule adopted or an order issued pursuant to this chapter, as a result of the licensee's wilful misconduct or wilful blindness;
 - (5) the competence, experience, character, or general fitness of the licensee, authorized delegate, person in control of a licensee, or responsible person of the licensee or authorized delegate indicates that it is not in the public interest to permit the person to provide money services;
 - (6) the licensee engages in an unsafe or unsound practice;
 - (7) the licensee is insolvent, suspends payment of its obligations, or makes a general assignment for the benefit of its creditors; or
 - (8) the licensee does not remove an authorized delegate after the commissioner issues and serves upon the licensee a final order including a finding that the authorized delegate has violated this chapter.
- (B) In determining whether a licensee is engaging in an unsafe or unsound practice, the commissioner may consider the size and condition of the licensee's money transmission, the magnitude of the loss, the gravity of the violation of this act, and the previous conduct of the person involved.

Section 35-11-705.

- (A) The commissioner may issue an order suspending or revoking the designation of an authorized delegate, if the commissioner finds that the:
- (1) authorized delegate violated this chapter or a rule adopted or an order issued pursuant to this chapter;
 - (2) authorized delegate did not cooperate with an examination or investigation by the commissioner;
 - (3) authorized delegate engaged in fraud, intentional misrepresentation, or gross negligence;
 - (4) authorized delegate is convicted of a violation of a state or federal anti-money laundering statute;
 - (5) competence, experience, character, or general fitness of the authorized delegate or a person in control of the authorized delegate indicates that it is not in the public interest to permit the authorized delegate to provide money services; or
 - (6) authorized delegate is engaging in an unsafe or unsound practice.
- (B) In determining whether an authorized delegate is engaging in an unsafe or unsound practice, the commissioner may consider the size and condition of the authorized delegate's provision of money services, the magnitude of the loss, the gravity of the violation of this chapter or a rule adopted or order issued pursuant to this chapter, and the previous conduct of the authorized delegate.
- (C) An authorized delegate may apply for relief from a suspension or revocation of designation as an authorized delegate according to procedures prescribed by the commissioner.

Section 35-11-710.

- (A) If the commissioner determines that a violation of this chapter or of a rule adopted or an order issued pursuant to this chapter by a licensee or authorized delegate is likely to cause immediate and irreparable harm to the licensee, its customers, or the public as a result of the violation, or cause insolvency or significant dissipation of assets of the licensee, the commissioner may issue an order requiring the licensee or authorized delegate to cease and desist from the violation. The order becomes effective upon service of it upon the licensee or authorized delegate.
- (B) The commissioner may issue an order against a licensee to cease and desist from providing money services through an authorized delegate that is the subject of a separate order by the commissioner.
- (C) An order to cease and desist remains effective and enforceable pending the completion of an administrative proceeding pursuant to Section 35-11-700 or 35-11-705.

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

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

Section 35-11-725.

- (A) A person who intentionally makes a false statement, misrepresentation, or false certification in a record filed or required to be maintained pursuant to this chapter, who intentionally makes a false entry or omits a material entry in that record, or violates a rule promulgated or order issued pursuant to this chapter is guilty of a Class B felony.
- (B) A person who knowingly engages in an activity for which a license is required pursuant to this chapter without being licensed pursuant to this chapter and who receives more than five hundred dollars in compensation within a thirty-day period from this activity is guilty of a Class B felony.
- (C) A person who knowingly engages in an activity for which a license is required pursuant to this chapter without being licensed pursuant to this chapter and who receives no more than five hundred dollars in compensation within a thirty-day period from this activity is guilty of a Class A misdemeanor.

Section 35-11-730.

- (A) If the commissioner has reason to believe that a person has violated or is violating Sections 35-11-200 or 35-11-300, the commissioner may issue an order to show cause why an order to cease and desist should not be issued requiring the person to cease and desist from the violation of Section 35-11-200 or 35-11-300.
- (B) In an emergency, the commissioner may petition the Richland County Circuit Court for the issuance of a temporary restraining order ex parte pursuant to the rules of civil procedure.
- (C) An order to cease and desist becomes effective upon service of the order on the person.
- (D) An order to cease and desist remains effective and enforceable pending the completion of an administrative proceeding pursuant to Sections 35-11-800 and 35-11-805.

Section 35-11-735.

- (A) Whenever a licensee has refused or is unable to pay its obligations generally as they become due or whenever it appears to the commissioner that a licensee is in an unsafe or unsound condition,

the commissioner may apply to the Richland County Circuit Court or to the circuit court of any county in which the licensee is located for the appointment of a receiver for the licensee. The court may require the receiver to post a bond in an amount that appears necessary to protect claimants of the licensee.

- (B) The receiver, subject to the approval of the court, shall take possession of the books, records, and assets of the licensee and shall take an action with respect to employees, agents, or representatives of the licensee or other action that may be necessary to conserve the assets of the licensee or ensure payment of instruments issued by the licensee pending further disposition of its business as provided by law. The receiver shall sue and defend, compromise, and settle all claims involving the licensee and exercise the powers and duties that are necessary and consistent with the laws of this State applicable to the appointment of receivers.
- (C) The receiver, from time to time, but in no event less frequently than once each calendar quarter, shall report to the court with respect to all acts and proceedings in connection with the receivership.

Section 35-11-740.

(A)

- (1) A person who, knowing that the property involved in a financial transaction represents the proceeds of, or is derived directly or indirectly from the proceeds of unlawful activity, conducts or attempts to conduct such a financial transaction that in fact involves the proceeds:
 - (a) with the intent to promote the carrying on of unlawful activity; or
 - (b) knowing that the transaction is designed in whole or in part to conceal or disguise the nature, location, sources, ownership, or control of the proceeds of unlawful activity; is guilty of a felony and, upon conviction, must be punished as follows:
 - (i) for a Class F felony if the transactions exceed three hundred dollars but are less than twenty thousand dollars in a twelve-month period;
 - (ii) for a Class E felony for transactions that total or exceed twenty thousand dollars but are less than one hundred thousand dollars in a twelve-month period; or
 - (iii) for a Class C felony for transactions that total or exceed one hundred thousand dollars in a twelve-month period.

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

- (2) A person who transports, transmits, or transfers, or attempts to transport, transmit, or transfer a monetary instrument or funds from a place in South Carolina to or through a place outside the United States or to a place in South Carolina from or through a place outside the United States:
 - (a) with the intent to promote the carrying on of unlawful activity; or
 - (b) knowing that the monetary instrument or funds involved in the transportation represent the proceeds of unlawful activity and knowing that the transportation is designed in whole or in part to conceal or disguise the nature, location, source, ownership, or control of the proceeds of unlawful activity is guilty of a felony and, upon conviction, must be punished as follows:

- (i) for a Class F felony if the transactions exceed three hundred dollars but are less than twenty thousand dollars in a twelve-month period;
- (ii) for a Class E felony for transactions that total or exceed twenty thousand dollars but are less than one hundred thousand dollars in a twelve-month period; or
- (iii) for a Class C felony for transactions that total or exceed one hundred thousand dollars in a twelve-month period.

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

(3) A person with the intent:

- (a) to promote the carrying on of unlawful activity; or
- (b) to conceal or disguise the nature, location, source, ownership, or control of property believed to be the proceeds of unlawful activity, conducts or attempts to conduct a financial transaction involving property represented by a law enforcement officer to be the proceeds of unlawful activity, or property used to conduct or facilitate unlawful activity is guilty of a felony and, upon conviction, must be punished as follows:
 - (i) for a Class F felony if the transactions exceed three hundred dollars but are less than twenty thousand dollars in a twelve-month period;
 - (ii) for a Class E felony for transactions that total or exceed twenty thousand dollars but are less than one hundred thousand dollars in a twelve-month period; or
 - (iii) for a Class C felony for transactions that total or exceed one hundred thousand dollars in a twelve-month period.

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

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

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

- (1) the value of the property, funds, or monetary instruments involved in the transaction; or
- (2) ten thousand dollars.

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

(C) As used in this section:

- (1) the term 'conducts' includes initiating, concluding, or participating in initiating or concluding a transaction;
- (2) the term 'transaction' includes a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition and, with respect to a financial institution, includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of a stock, bond, certificate of deposit, or other monetary instrument, or another payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected;
- (3) the term 'financial transaction' means a transaction involving the movement of funds by wire or other means or involving one or more monetary instruments;
- (4) the term 'monetary instruments' means coin or currency of the United States or of another country, travelers' checks, personal checks, bank checks, money orders, investment securities in bearer form or otherwise in that form that title to it passes upon delivery, and negotiable instruments in bearer form or otherwise in that form that title to it passes upon delivery;
- (5) the term 'financial institution' has the definition given that term in [Section 5312\(a\)\(2\), Title 31, United States Code](#), and the regulations promulgated thereunder.

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

Article 8

Administrative Procedures

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

Section 35-11-805. Except as otherwise provided in Sections 35-11-225(C), 35-11-315(C), 35-11-710, and 35-11-730, the commissioner may not suspend or revoke a license, issue an order to cease and desist, suspend or revoke the designation of an authorized delegate, or assess a civil penalty without notice and an opportunity to be heard. The commissioner also shall hold a hearing when requested to do so by an applicant whose application for a license is denied.

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

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

Article 9

Miscellaneous Provisions

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

State Grand Jury jurisdiction

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

- "(A) The jurisdiction of a state grand jury impaneled pursuant to this article extends throughout the State. The subject matter jurisdiction of a state grand jury in all cases is limited to the following offenses:
- (1) a crime involving narcotics, dangerous drugs, or controlled substances, or a crime arising out of or in connection with a crime involving narcotics, dangerous drugs, or controlled substances, including, but not limited to, money laundering as specified in Section 44-53-475, obstruction of justice, perjury or subornation of perjury, or any attempt, aiding, abetting, solicitation, or conspiracy to commit one of the aforementioned crimes, if the crime is of a multi-county nature or has transpired or is transpiring or has significance in more than one county of this State;
 - (2) a crime involving criminal gang activity or a pattern of criminal gang activity pursuant to Article 3, Chapter 8, Title 16;
 - (3) a crime, statutory, common law or other, involving public corruption as defined in Section 14-7-1615, a crime, statutory, common law or other, arising out of or in connection with a crime involving public corruption as defined in Section 14-7-1615, and any attempt, aiding, abetting, solicitation, or conspiracy to commit a crime, statutory, common law or other, involving public corruption as defined in Section 14-7-1615;
 - (4) a crime involving the election laws, including, but not limited to, those named offenses specified in Title 7, or a common law crime involving the election laws if not superseded, or a crime arising out of or in connection with the election laws, or any attempt, aiding, abetting, solicitation, or conspiracy to commit a crime involving the election laws;
 - (5) a crime involving computer crimes, pursuant to Chapter 16, Title 16, or a conspiracy or solicitation to commit a crime involving computer crimes;
 - (6) a crime involving terrorism, or a conspiracy or solicitation to commit a crime involving terrorism. Terrorism includes an activity that:
 - (a) involves an act dangerous to human life that is a violation of the criminal laws of this State;
 - (b) appears to be intended to:
 - (i) intimidate or coerce a civilian population;
 - (ii) influence the policy of a government by intimidation or coercion; or
 - (iii) affect the conduct of a government by mass destruction, assassination, or kidnapping;and
 - (c) occurs primarily within the territorial jurisdiction of this State;
 - (7) a crime involving a violation of Chapter 1, Title 35 of the Uniform Securities Act, or a crime related to securities fraud or a violation of the securities laws;
 - (8) a crime involving obscenity, including, but not limited to, a crime as provided in Article 3, Chapter 15, Title 16, or any attempt, aiding, abetting, solicitation, or conspiracy to commit a crime involving obscenity;
 - (9) a crime involving the knowing and wilful making of, aiding and abetting in the making of, or soliciting or conspiring to make a false, fictitious, or fraudulent statement or representation in an affidavit regarding an alien's lawful presence in the United States, as defined by law, if the number of violations exceeds twenty or if the public benefit received by a person from a violation or combination of violations exceeds twenty thousand dollars;
 - (10) a crime involving financial identity fraud or identity fraud involving the false, fictitious, or fraudulent creation or use of documents used in an immigration matter as defined in Section 16-13-525, if the number of violations exceeds twenty, or if the value of the ascertainable loss of money or property suffered by a person or persons from a violation or combination of violations exceeds twenty thousand dollars;

- (11) a crime involving the knowing and wilful making of, aiding or abetting in the making of, or soliciting or conspiring to make a false, fictitious, or fraudulent statement or representation in a document prepared or executed as part of the provision of immigration assistance services in an immigration matter, as defined by law, if the number of violations exceeds twenty, or if a benefit received by a person from a violation or combination of violations exceeds twenty thousand dollars;
- (12) a knowing and wilful crime involving actual and substantial harm to the water, ambient air, soil or land, or both soil and land. This crime includes a knowing and wilful violation of the Pollution Control Act, the Atomic Energy and Radiation Control Act, the State Underground Petroleum Environmental Response Bank Act, the State Safe Drinking Water Act, the Hazardous Waste Management Act, the Infectious Waste Management Act, the Solid Waste Policy and Management Act, the Erosion and Sediment Control Act, the South Carolina Mining Act, and the Coastal Zone Management Act, or a knowing and wilful crime arising out of or in connection with environmental laws, or any attempt, aiding, abetting, solicitation, or conspiracy to commit a knowing and wilful crime involving the environment if the anticipated actual damages, including, but not limited to, the cost of remediation, is two million dollars or more, as certified by an independent environmental engineer who must be contracted by the Department of Health and Environmental Control. If the knowing and wilful crime is a violation of federal law, a conviction or an acquittal pursuant to federal law for the same act is a bar to the impaneling of a state grand jury pursuant to this section;
- (13) a crime involving or relating to the offense of trafficking in persons, as defined in Section 16-3-2020, when a victim is trafficked in more than one county or a trafficker commits the offense of trafficking in persons in more than one county; and
- (14) a crime involving a violation of the South Carolina Anti-Money Laundering Act as set forth in Chapter 11, Title 35, or a crime related to a violation of the Anti-Money Laundering Act."

Savings Clause

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

Severability

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

Time effective

SECTION 5. This act takes effect one year after approval of this act by the Governor or upon the publication in the State Register of final regulations implementing the act, whichever occurs later. The commissioner

is authorized to begin promulgating these regulations upon approval of this act by the Governor which shall take effect when this act takes effect as provided in this section.

History

SOUTH CAROLINA GENERAL ASSEMBLY

121ST SESSION, 2015-2016

(R305, H4554)

Sponsor(s)

Clemmons

Classification

Subject: MONEY LAUNDERING (95%); FINANCIAL CRIME COUNTERMEASURES (94%); BANKING & FINANCE REGULATION (94%); ORGANIZED CRIME (94%); BANKING & FINANCE (63%); BUSINESS INSOLVENCY & BANKRUPTCY (63%); LEGISLATION (62%); LEGISLATORS (62%)

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