

GREEN SHEET REDIGEST

HB 1040

2022 Regular Session

LaCombe

COMMERCE: Provides relative to payment processing services.

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DIGEST

Present law provides for the regulation of the sale of checks and money transmission by the office of financial institutions.

Proposed law requires every money transmitter licensee and its authorized delegates to transmit the monetary equivalent of all money or equivalent value received from a customer for transmission, net of any fees, or issue instructions committing the money to the person designated by the customer within 10 business days, unless otherwise ordered by the customer.

Proposed law provides that any provision in a money transmitter licensee contract or user policy that provides a financial penalty or stipulated damages for executing a lawful and valid transaction under law shall be null and void.

Proposed law requires the licensee to provide notice to a customer of any transaction that the licensee finds to be or is suspected of being in violation of the contract or user policy. Provides that any funds seized by the licensee prior to providing the notice and found to be from a lawful and valid transaction under law shall be returned to the customer.

Proposed law restricts the enforcement of any choice of law provision in a money transmitter licensee contract or user policy if such enforcement would result in a contravention of the prohibition in proposed law.

Proposed law provides that a licensee that seizes or holds funds pursuant to a service contract or user policy provision that is subject to nullification as provided in proposed law shall return to its customer any funds held or seized as a result of such violation. Allows the licensee to cancel the service contract.

A violation of proposed law shall be considered an unfair trade practice.

Proposed law shall not apply to any federally insured financial institution, its subsidiaries, and affiliates.

(Adds R.S. 6:1055)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Commerce to the original bill:

1. Exempt certain entities from the application of the unfair trade practice law and provides that the exempted entities are subject to the enforcement power of the commissioner of the office of financial institutions provided in present law.
2. Provide that proposed law does not apply to an entity that provides payment-processing services for unauthorized or illegal acts.
3. Make technical changes.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Commerce, Consumer Protection, and International Affairs to the engrossed bill

1. Removes provisions relative to crowdsourcing and payment-processing services.
2. Requires money transmitters, licensed by office of financial institutions, to deliver funds received to a customer or other designated person and to provide notice if delivery of funds would violate the contract or user policy.
3. Nullifies certain contract or user policy provisions that prohibit lawful activity.
4. Prohibits enforcement of certain choice of law provisions.
5. Subjects a money transmitter licensee who violates proposed law to provisions of the Unfair Trade Practices Law and the enforcement powers of the commissioner of OFI.
6. Exempts any federally insured financial institution and its subsidiaries and affiliates from the provisions of proposed law.