AMENDMENT NO. 1

Delete Senate Committee Amendment No.2 proposed by the Senate Committee on Commerce, Consumer Protection and International Affairs and adopted by the Senate on May 19, 2022.

AMENDMENT NO. 2

On page 1, delete lines 10 through 20 in their entirety and delete page 2 in its entirety and insert the following:

"Section 1. R.S. 6:1055 is hereby enacted to read as follows:

§1055. Money transmitters; delivery of funds requirements; exceptions

A. Every money transmitter licensee and its agents shall transmit the monetary equivalent of all money or equivalent value received from a consumer for transmission, net of any fees, or issue instructions committing the money or its monetary equivalent, to the person designated by the consumer, or return such amount to the consumer, within ten business days after receiving the money or equivalent value, unless otherwise ordered by the consumer, accepted under the terms of a contract for stored value or when the transmission is for the payment of goods or services, or unless the licensee or its agent has reasonable cause to believe that a violation of law has occurred, is occurring, or will occur in connection with transmitting the money.

B. For purposes of this Section, money is considered to have been transmitted when it is mailed, released to the relevant payment system for delivery, or is otherwise available to the person designated by the consumer and, where possible, a reasonable effort has been made to inform the designated person that the money is available.

C.(1) Any provision in a money transmitter licensee user policy or user agreement which provides a financial penalty or stipulated damages against a consumer or charitable organization as defined by R.S. 51:1901, for executing a lawful and valid transaction under federal and state law is contrary to public policy and shall be null and void.

(2) A money transmitter licensee shall provide notice to a consumer of any transaction that the money transmitter finds to be or is suspected of being in violation of the user policy or user agreement and for which the licensee seizes the transaction funds, unless such notice is prohibited by law. Any funds seized by the money transmitter prior to providing such notice, unless such notice is prohibited by law, and found to be from a lawful and valid transaction under federal and state law shall be processed by the licensee in accordance with Subsection A of this Section.

D. The enforcement of any choice-of-law provision in a money transmitter licensee user policy or user agreement that would result in a contravention of the public policy of this state as expressed by Subsection C of this Section shall be null and void to the extent of such contravention.

E. A money transmitter licensee that seizes or holds funds pursuant to a user policy or user agreement provision that is subject to nullification as
provided by this Section shall return to the consumer any funds held or
seized as a result of such violation, including any financial penalty or
stipulated damages assessed, and such money transmitter licensee may cancel
the service contract.

F. The commissioner of the Office of Financial Institutions shall
have the authority to enjoin a violation of this Section, and any such violation
shall be considered an unfair trade practice and shall subject violators to the
provisions of R.S. 51:1401 et seq. Entities covered by this Section shall be
subject to the enforcement powers of the commissioner of the Office of
Financial Institutions as provided in R.S. 6:121.1. For purposes of this
Section, the provisions of R.S. 51:1406 shall not apply to a money
transmitter licensee.

G.(1) The provisions of this Section shall not apply to any federally
insured financial institution, its subsidiaries, and affiliates.

(2) The provisions of this Section shall not apply to an operator of a
payment system or its subsidiaries and affiliates which are exempt from
licensing under The Sale of Checks and Money Transmission Act, R.S.
6:1031 et seq., to the extent that the operator of a payment system provides
processing, clearing, or settlement services, between or among persons, in
connection with wire transfers, credit card transactions, debit card
transactions, stored value transactions, automated clearing house transfers,
or similar funds transfers.”