

2022 Regular Session

HOUSE BILL NO. 1040

BY REPRESENTATIVES LACOMBE, AMEDEE, DAVIS, FISHER, FONTENOT,
GOUDEAU, MCKNIGHT, MIGUEZ, NEWELL, PRESSLY, AND THOMAS

1 AN ACT

2 To enact R.S. 6:1055, relative to the transmission and delivery of funds; to provide relative
3 to money transmission services; to provide for certain delivery time periods; to
4 provide for notice of availability of funds; to provide for contracts and user
5 agreements; to prohibit certain provisions; to provide for notice of violations; to
6 provide relative to the application of unfair trade practices law; to provide for
7 exceptions; to provide for enforcement by the commissioner of the office of financial
8 institutions in certain situations; to provide for unauthorized or illegal acts; and to
9 provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

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

12 §1055. Money transmitters; delivery of funds requirements; exceptions

13 A. Every money transmitter licensee and its agents shall transmit the
14 monetary equivalent of all money or equivalent value received from a consumer for
15 transmission, net of any fees, or issue instructions committing the money or its
16 monetary equivalent, to the person designated by the consumer, or return such
17 amount to the consumer, within ten business days after receiving the money or
18 equivalent value, unless otherwise ordered by the consumer, accepted under the
19 terms of a contract for stored value or when the transmission is for the payment of
20 goods or services, or unless the licensee or its agent has reasonable cause to believe

1 that a violation of law has occurred, is occurring, or will occur in connection with
2 transmitting the money.

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

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

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

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

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

29 F. The commissioner of the Office of Financial Institutions shall have the
30 authority to enjoin a violation of this Section, and any such violation shall be

1 considered an unfair trade practice and shall subject violators to the provisions of
 2 R.S. 51:1401 et seq. Entities covered by this Section shall be subject to the
 3 enforcement powers of the commissioner of the Office of Financial Institutions as
 4 provided in R.S. 6:121.1. For purposes of this Section, the provisions of R.S.
 5 51:1406 shall not apply to a money transmitter licensee.

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

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

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____