2022 Regular Session

HOUSE BILL NO. 1040

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

COMMERCE: Provides relative to payment processing services

1   AN ACT

2   To enact Chapter 20 of Title 51 of the Louisiana Revised Statutes of 1950, to be comprised

3   of R.S. 51:1751 through 1754, relative to payment processors; to provide definitions;

4   to prohibit discrimination; to provide for a violation; to provide for an unfair trade

5   practice; to exempt certain entities from the application of unfair trade practices law;

6   to provide for enforcement by the commissioner of the office of financial institutions

7   in certain situations; to provide for unauthorized or illegal acts; and to provide for

8   related matters.

9   Be it enacted by the Legislature of Louisiana:

10   Section 1. Chapter 20 of Title 51 of the Louisiana Revised Statutes of 1950,

11   comprised of R.S. 51:1751 through 1754, is hereby enacted to read as follows:

12   CHAPTER 20. DUTY TO RETURN UNDELIVERED FUNDS

13   §1751. Definitions

14   For purposes of this Chapter, the following words have the following

15   meanings:

16   (1) "Company" means a for-profit organization, association, corporation,

17   partnership, joint venture, limited partnership, limited liability partnership, or limited

18   liability company, including a wholly-owned subsidiary, majority-owned subsidiary,

19   parent company, or affiliate of those entities or associations that exists to make a

20   profit. "Company" does not mean a sole proprietorship.

1   (2) "Crowdfunding platform" means a digital application website that

2   enables interaction between fundraisers and the crowd. A crowdfunding platform

3   allows users to make financial pledges which can be made and collected through the

4   crowdfunding platform.

5   (3) "Payment processor" means a person who provides payment-processing

6   services.

7   (4) "Payment-processing service" means accepting, maintaining, holding, or

8   distributing funds, or facilitating the acceptance, maintenance, holding, or

9   distribution of funds, on behalf of a consumer for the purpose of facilitating debt

10   settlement services.

11   §1752. Inability to perform; return of funds

12   A. A company that provides a payment-processing service, including but not

13   limited to a crowdfunding platform or a payment processor, shall deliver funds only

14   to the person specified as the recipient by the provider of the funds.

15   B. If a company is unable to provide the funds to the specified recipient, for

16   any reason, it shall return all of the funds to the original provider of the funds.

17   §1753. Violations; unfair trade

18   Except as provided in R.S. 51:1406, a violation of this Chapter shall be

19   considered an unfair trade practice and subject violators to the provisions of R.S.

20   51:1401 et seq. Entities covered by R.S. 51:1406 shall be subject to the enforcement

21   powers of the commissioner of the office of financial institutions as provided in R.S.

22   6:121.1.

23   §1754. Unauthorized or illegal acts by a third party

24   The provisions of this Chapter shall not apply to an entity that provides

25   payment-processing services including but not limited to a crowdfunding platform

26   or a payment processor for unauthorized or illegal acts by a third party, including

27   terrorism, sabotage, riot, vandalism, labor strikes or disputes disrupting operations,

28   or similar occurrence.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 1040 Engrossed	2022 Regular Session	LaCombe

Abstract: Requires payment-processing companies to return payments if those funds cannot be delivered to the intended recipient.

Proposed law defines "company", "crowdfunding platform", "payment processor", and "payment-processing services".

Proposed law requires a company that provides payment-processing services to deliver funds to the recipient, as designated by the person providing the funds.

Proposed law requires the company to return the funds to the original provider if it cannot deliver the funding to the designated recipient.

Except as provided for in present law (R.S.51:1406), a violation of proposed law is an unfair trade practice and subjects violators to the applicable provisions of present law (R.S. 51:1401).

Proposed law provides that an entity who is exempted from the application of the unfair trade practice provisions provided in present law, shall instead be subject to the enforcement powers of the commissioner of financial institutions pursuant to present law (R.S. 6:121.1).

Proposed law does not apply to an entity that provides unauthorized or illegal acts.

(Adds R.S. 51:1751-1754)

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.