
SENATE COMMITTEE AMENDMENTS

2022 Regular Session

Amendments proposed by Senate Committee on Commerce, Consumer Protection and International Affairs to Engrossed House Bill No. 1040 by Representative LaCombe

1 AMENDMENT NO. 1

2 On page 1, line 2, after "enact" delete the remainder of the line and delete lines 3 through 5
3 in their entirety and insert the following:

4 "R.S. 6:1055, relative to the transmission and delivery of funds; to provide
5 relative to money transmission services; to provide for certain delivery time
6 periods; to provide for notice of availability of funds; to provide for contracts
7 and user agreements; to prohibit certain provisions; to provide for notice of
8 violations; to provide relative to the application of unfair trade practices law;
9 to provide for exceptions;"

10 AMENDMENT NO. 2

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

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

14 §1055. Money transmitter delivery of funds requirement

15 A. Every money transmitter licensee and its authorized delegates
16 shall transmit the monetary equivalent of all money or equivalent value
17 received from a customer for transmission, net of any fees, or issue
18 instructions committing the money or its monetary equivalent, to the person
19 designated by the customer within ten business days after receiving the
20 money or equivalent value, unless otherwise ordered by the customer,
21 accepted under the terms of a contract for stored value or when the
22 transmission is for the payment of goods or services or unless the licensee or
23 its authorized delegate has reason to believe that a crime has occurred, is
24 occurring, or may occur as a result of transmitting the money.

25 B. For purposes of this Section, money is considered to have been
26 transmitted when it is available to the person designated by the customer and
27 a reasonable effort has been made to inform the designated person that the
28 money is available, whether or not the designated person has taken
29 possession of the money.

30 C.(1) Any provision in a money transmitter licensee contract or user
31 policy which provides a financial penalty or stipulated damages for executing
32 a lawful and valid transaction under federal and state law is manifestly
33 unreasonable, contrary to public policy, and shall be null and void.

34 (2) A money transmitter licensee shall provide notice to a customer
35 of any transaction as provided in Paragraph (1) of this Subsection that the
36 money transmitter finds to be or is suspected of being in violation of the
37 contract or user policy. Any funds seized by the money transmitter prior to
38 providing such notice and found to be from a lawful and valid transaction
39 under federal and state law shall be returned to the consumer.

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

1 E. A money transmitter licensee that seizes or holds funds pursuant
2 to a service contract or user policy provision that is subject to nullification
3 as provided by this Section shall return to the client any funds held or seized
4 as a result of such violation and such money transmitter licensee may cancel
5 the service contract.

6 F. A violation of this Section shall be considered an unfair trade
7 practice and shall subject violators to the provisions of R.S. 51:1401 et seq.
8 Entities covered by this Section shall be subject to the enforcement powers
9 of the commissioner of the office of financial institutions as provided in R.S.
10 6:121.1. For purposes of this Section, the provisions of R.S. 51:1406 shall
11 not apply to a money transmitter licensee.

12 G. The provisions of this Section shall not apply to any federally
13 insured financial institution, its subsidiaries, and affiliates."