
SENATE FLOOR AMENDMENTS

2022 Regular Session

Amendments proposed by Senator Ward to Engrossed House Bill No. 1040 by Representative LaCombe

1 AMENDMENT NO. 1

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

5 AMENDMENT NO. 2

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

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

9 §1055. Money transmitters; delivery of funds requirements; exceptions

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

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

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

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

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

43 E. A money transmitter licensee that seizes or holds funds pursuant
44 to a user policy or user agreement provision that is subject to nullification as

1 provided by this Section shall return to the consumer any funds held or
2 seized as a result of such violation, including any financial penalty or
3 stipulated damages assessed, and such money transmitter licensee may cancel
4 the service contract.

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

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

15 (2) The provisions of this Section shall not apply to an operator of a
16 payment system or its subsidiaries and affiliates which are exempt from
17 licensing under The Sale of Checks and Money Transmission Act, R.S.
18 6:1031 et seq., to the extent that the operator of a payment system provides
19 processing, clearing, or settlement services, between or among persons, in
20 connection with wire transfers, credit card transactions, debit card
21 transactions, stored value transactions, automated clearing house transfers,
22 or similar funds transfers."