

HOUSE SUMMARY OF SENATE AMENDMENTS**HB 1040****2022 Regular Session****LaCombe**

COMMERCE: Provides relative to payment processing services

Synopsis of Senate Amendments

1. Removes all proposed law provisions adding R.S. 51:1751 - 1754 which provided for the duty to return undelivered funds and provided for applicable definitions and exceptions.
2. Adds proposed law (R.S. 6:1055) which provides for the duties of money transmitter licensees to transmit consumer's funds.
3. Adds provisions specifying as against public policy certain user policy provisions which shall be null and void.
4. Adds requirement of notice to the consumer and requires the return of seized funds under certain circumstances.
5. Prohibits the application of choice-of-law provisions which would result in a contravention of La. public policy.
6. Authorizes the commissioner of financial institutions to have enforcement authority under present law (Unfair Trade Practices and Consumer Protection Law (R.S. 51:1401 et seq.)).
7. Adds exceptions to proposed law for federally insured financial institutions and certain operators of payment systems.

Digest of Bill as Finally Passed by Senate

Present law (R.S. 6:1031 et seq.) provides for the regulation of the sale of checks and money transmission by the office of financial institutions.

Proposed law requires every money transmitter licensee and its agents to 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 to the person designated by the consumer within 10 business days, unless otherwise ordered by the consumer or unless the licensee or its agent has reasonable cause to believe that a violation of law has occurred.

Proposed law specifies that money is considered to have been transmitted when it is mailed, released for delivery, or is otherwise made available to the person designated by the consumer.

Proposed law provides that any provision in a money transmitter licensee user policy or user agreement that provides a financial penalty or stipulated damages for executing a lawful and valid transaction under federal and La. law is contrary to public policy and shall be null and void.

Proposed law requires the licensee to provide notice to a consumer of any transaction that the licensee finds to be or is suspected of being in violation of the user policy or agreement. Provides that any funds seized by the licensee prior to providing the notice and found to be from a lawful and valid transaction under law shall be returned to the consumer.

Proposed law restricts the enforcement of any choice-of-law provision in a money transmitter licensee user policy or user agreement if such enforcement would result in a contravention of the prohibition in proposed law.

Proposed law provides that a licensee that seizes or holds funds pursuant to a user policy or agreement provision that is subject to nullification as provided in proposed law shall return to its consumer any funds held or seized as a result of such violation. Allows the licensee to cancel the service contract.

A violation of proposed law shall be considered an unfair trade practice, and proposed law authorizes the commissioner of the office of financial institutions to enjoin such violation.

Proposed law shall not apply to any federally insured financial institution, its subsidiaries, and affiliates, and shall not apply to certain operators of payment systems that are exempt from The Sale of Checks and Money Transmission Act (R.S. 6:1031 et seq.).

(Adds R.S. 6:1055)