

**First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 25-0524.01 Brita Darling x2241

HOUSE BILL 25-1201

HOUSE SPONSORSHIP

Marshall,

SENATE SPONSORSHIP

Hinrichsen,

House Committees
Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING IMPLEMENTING A MODEL ACT TO MODERNIZE MONEY**
102 **TRANSMISSION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill repeals the current "Money Transmitters Act" and replaces it with the "Money Transmission Modernization Act" (act). The new act enacts, in part, a model law developed in conjunction with the money transmitter industry.

The act reduces regulatory burden by modernizing outdated and inconsistent regulatory requirements, including:

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

HOUSE
Amended 2nd Reading
March 5, 2025

- Clarifying the definition of "control" of a licensee and introducing a rebuttable presumption of control;
- Enabling Colorado's participation in multistate licensing initiatives;
- Codifying the agent-to-payee exemption to licensure;
- Revising prudential standards required for licensing and ongoing monitoring, such as tangible net worth and permissible investment calculations;
- Establishing an irrevocable, standby letter of credit as a permissible investment; and
- Expanding the enforcement actions available in case of nonperformance by a money transmitter.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **repeal and reenact,**
 3 **with amendments,** article 110 of title 11 as follows:

4 **ARTICLE 110**

5 **Money Transmitters**

6 **PART 1**

7 **SHORT TITLE AND LEGISLATIVE DECLARATION**

8 **11-110-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 110 IS
 9 THE "MONEY TRANSMISSION MODERNIZATION ACT".

10 **11-110-102. Legislative declaration.** (1) THE GENERAL
 11 ASSEMBLY FINDS AND DECLARES THAT THE PURPOSE OF THIS ARTICLE 110
 12 IS TO:

13 (a) ENSURE STATES CAN COORDINATE IN ALL AREAS OF
 14 REGULATION, LICENSING, AND SUPERVISION TO ELIMINATE UNNECESSARY
 15 REGULATORY BURDEN AND MORE EFFECTIVELY UTILIZE REGULATOR
 16 RESOURCES;

17 (b) PROTECT THE PUBLIC FROM FINANCIAL CRIME;

18 (c) STANDARDIZE THE TYPES OF ACTIVITIES THAT ARE SUBJECT TO
 19 LICENSING OR OTHERWISE EXEMPT FROM LICENSING; AND

1 (d) MODERNIZE SAFETY AND SOUNDNESS REQUIREMENTS TO
2 ENSURE CUSTOMER MONEY IS PROTECTED IN AN ENVIRONMENT THAT
3 SUPPORTS INNOVATIVE AND COMPETITIVE BUSINESS PRACTICES.

4 PART 2
5 DEFINITIONS

6 **11-110-201. Definitions - rules.** AS USED IN THIS ARTICLE 110,
7 UNLESS THE CONTEXT OTHERWISE REQUIRES:

8 (1) "ACTING IN CONCERT" MEANS PERSONS KNOWINGLY ACTING
9 TOGETHER WITH A COMMON GOAL OF JOINTLY ACQUIRING CONTROL OF A
10 LICENSEE, WHETHER OR NOT PURSUANT TO AN EXPRESS AGREEMENT.

11 (2) "AUTHORIZED DELEGATE" MEANS A PERSON A LICENSEE
12 DESIGNATES TO ENGAGE IN MONEY TRANSMISSION ON BEHALF OF THE
13 LICENSEE.

14 (3) "AVERAGE DAILY MONEY TRANSMISSION LIABILITY" MEANS
15 THE AMOUNT OF A LICENSEE'S OUTSTANDING MONEY TRANSMISSION
16 OBLIGATIONS IN THIS STATE AT THE END OF EACH DAY IN A GIVEN PERIOD
17 OF TIME, ADDED TOGETHER AND DIVIDED BY THE TOTAL NUMBER OF DAYS
18 IN THE GIVEN PERIOD OF TIME. FOR PURPOSES OF CALCULATING AVERAGE
19 DAILY MONEY TRANSMISSION LIABILITY UNDER THIS ARTICLE 110 FOR ANY
20 LICENSEE REQUIRED TO DO SO, THE GIVEN PERIOD OF TIME IS THE
21 QUARTERS ENDING MARCH 31, JUNE 30, SEPTEMBER 30, AND DECEMBER
22 31.

23 (4) "BANKING BOARD" OR "BOARD" MEANS THE BANKING BOARD
24 CREATED IN SECTION 11-102-103.

25 (5) "BANK SECRECY ACT" MEANS THE FEDERAL "BANK SECRECY
26 ACT", 31 U.S.C. SEC. 5311 ET SEQ., AS AMENDED, AND ITS IMPLEMENTING
27 REGULATIONS.

1 (6) "CLOSED LOOP STORED VALUE" MEANS STORED VALUE THAT
2 IS REDEEMABLE BY AN ISSUER ONLY FOR GOODS OR SERVICES PROVIDED
3 BY THE ISSUER OR ITS AFFILIATE OR FRANCHISEES OF THE ISSUER OR ITS
4 AFFILIATE, EXCEPT TO THE EXTENT REQUIRED BY APPLICABLE LAW TO BE
5 REDEEMABLE IN CASH FOR ITS CASH VALUE.

6 (7) "COMMISSIONER" MEANS THE STATE BANK COMMISSIONER
7 APPOINTED AND SERVING PURSUANT TO SECTION 11-102-101 (2).

8 (8) (a) "CONTROL" MEANS THE POWER TO:

9 (I) VOTE, DIRECTLY OR INDIRECTLY, AT LEAST TWENTY-FIVE
10 PERCENT OF THE OUTSTANDING VOTING SHARES OR VOTING INTERESTS OF
11 A LICENSEE OR PERSON IN CONTROL OF A LICENSEE;

12 (II) ELECT OR APPOINT A MAJORITY OF KEY INDIVIDUALS OR
13 EXECUTIVE OFFICERS, MANAGERS, DIRECTORS, TRUSTEES, OR OTHER
14 INDIVIDUALS EXERCISING MANAGERIAL AUTHORITY OF A PERSON IN
15 CONTROL OF A LICENSEE; OR

16 (III) EXERCISE, DIRECTLY OR INDIRECTLY, A CONTROLLING
17 INFLUENCE OVER THE MANAGEMENT OR POLICIES OF A LICENSEE OR
18 PERSON IN CONTROL OF A LICENSEE.

19 (b) **Rebuttable presumption of control.** (I) A PERSON IS
20 PRESUMED TO EXERCISE A CONTROLLING INFLUENCE WHEN THE PERSON
21 HOLDS THE POWER TO VOTE, DIRECTLY OR INDIRECTLY, AT LEAST TEN
22 PERCENT OF THE OUTSTANDING VOTING SHARES OR VOTING INTERESTS OF
23 A LICENSEE OR PERSON IN CONTROL OF A LICENSEE.

24 (II) A PERSON PRESUMED TO EXERCISE A CONTROLLING INFLUENCE
25 AS DESCRIBED IN THIS SUBSECTION (8) MAY REBUT THE PRESUMPTION OF
26 CONTROL IF THE PERSON IS A PASSIVE INVESTOR.

27 (c) FOR PURPOSES OF DETERMINING THE PERCENTAGE OF A PERSON

1 CONTROLLED BY ANY OTHER PERSON, THE PERSON'S INTEREST SHALL BE
2 AGGREGATED WITH THE INTEREST OF ANY OTHER IMMEDIATE FAMILY
3 MEMBER, INCLUDING THE PERSON'S SPOUSE, PARENTS, CHILDREN,
4 SIBLINGS, MOTHERS- AND FATHERS-IN-LAW, SONS- AND
5 DAUGHTERS-IN-LAW, AND BROTHERS- AND SISTERS-IN-LAW AND ANY
6 OTHER PERSON WHO SHARES SUCH PERSON'S HOME.

7 (9) "DIVISION" MEANS THE DIVISION OF BANKING CREATED IN
8 SECTION 11-102-101.

9 (10) "ELIGIBLE RATING" MEANS A CREDIT RATING OF ANY OF THE
10 THREE HIGHEST RATING CATEGORIES PROVIDED BY AN ELIGIBLE RATING
11 SERVICE, WHEREBY EACH CATEGORY MAY INCLUDE RATING CATEGORY
12 MODIFIERS SUCH AS "PLUS" OR "MINUS" FOR S&P GLOBAL RATINGS OR
13 THE EQUIVALENT FOR ANY OTHER ELIGIBLE RATING SERVICE. LONG-TERM
14 CREDIT RATINGS ARE DEEMED ELIGIBLE IF THE RATING IS EQUAL TO "A-"
15 OR HIGHER BY S&P GLOBAL RATINGS OR THE EQUIVALENT FROM ANY
16 OTHER ELIGIBLE RATING SERVICE. SHORT-TERM CREDIT RATINGS ARE
17 DEEMED ELIGIBLE IF THE RATING IS EQUAL TO OR HIGHER THAN "A-2" OR
18 "SP-2" BY S&P GLOBAL RATINGS OR THE EQUIVALENT FROM ANY OTHER
19 ELIGIBLE RATING SERVICE. IN THE EVENT THAT RATINGS DIFFER AMONG
20 ELIGIBLE RATING SERVICES, THE HIGHEST RATING APPLIES WHEN
21 DETERMINING WHETHER A SECURITY BEARS AN ELIGIBLE RATING.

22 (11) "ELIGIBLE RATING SERVICE" MEANS ANY NATIONALLY
23 RECOGNIZED STATISTICAL RATING ORGANIZATION, OR "NRSRO", AS
24 DEFINED BY THE UNITED STATES SECURITIES AND EXCHANGE
25 COMMISSION, AND ANY OTHER ORGANIZATION DESIGNATED BY THE
26 BANKING BOARD BY RULE OR ORDER.

27 (12) "FEDERALLY INSURED DEPOSITORY FINANCIAL INSTITUTION"

1 MEANS A BANK, CREDIT UNION, SAVINGS AND LOAN ASSOCIATION, TRUST
2 COMPANY, SAVINGS ASSOCIATION, SAVINGS BANK, INDUSTRIAL BANK, OR
3 INDUSTRIAL LOAN COMPANY ORGANIZED UNDER THE LAWS OF THE UNITED
4 STATES OR ANY STATE OF THE UNITED STATES, WHEN SUCH BANK, CREDIT
5 UNION, SAVINGS AND LOAN ASSOCIATION, TRUST COMPANY, SAVINGS
6 ASSOCIATION, SAVINGS BANK, INDUSTRIAL BANK, OR INDUSTRIAL LOAN
7 COMPANY HAS FEDERALLY INSURED DEPOSITS.

8 (13) "INDIVIDUAL" MEANS A NATURAL PERSON.

9 (14) (a) "IN THIS STATE" MEANS AT A PHYSICAL LOCATION WITHIN
10 THIS STATE FOR A TRANSACTION REQUESTED IN PERSON.

11 (b) FOR A TRANSACTION REQUESTED ELECTRONICALLY OR BY
12 PHONE, THE PROVIDER OF MONEY TRANSMISSION SHALL DETERMINE IF THE
13 PERSON REQUESTING THE TRANSACTION IS "IN THIS STATE" BY RELYING ON
14 OTHER INFORMATION PROVIDED BY THE PERSON REGARDING THE
15 LOCATION OF THE INDIVIDUAL'S RESIDENTIAL ADDRESS OR A BUSINESS
16 ENTITY'S PRINCIPAL PLACE OF BUSINESS OR OTHER PHYSICAL ADDRESS
17 LOCATION, AND ANY RECORDS ASSOCIATED WITH THE PERSON THAT THE
18 PROVIDER OF MONEY TRANSMISSION MAY HAVE THAT INDICATE SUCH
19 LOCATION, INCLUDING BUT NOT LIMITED TO AN ADDRESS ASSOCIATED
20 WITH AN ACCOUNT.

21 (15) "KEY INDIVIDUAL" MEANS ANY INDIVIDUAL ULTIMATELY
22 RESPONSIBLE FOR ESTABLISHING OR DIRECTING POLICIES AND PROCEDURES
23 OF A LICENSEE, SUCH AS AN EXECUTIVE OFFICER, MANAGER, DIRECTOR, OR
24 TRUSTEE.

25 (16) "LICENSEE" MEANS A PERSON LICENSED UNDER THIS ARTICLE
26 110.

27 (17) "MATERIAL LITIGATION" MEANS LITIGATION THAT,

1 ACCORDING TO UNITED STATES GENERALLY ACCEPTED ACCOUNTING
2 PRINCIPLES, IS SIGNIFICANT TO A PERSON'S FINANCIAL HEALTH AND WOULD
3 BE REQUIRED TO BE DISCLOSED IN THE PERSON'S ANNUAL AUDITED
4 FINANCIAL STATEMENTS OR REPORT TO SHAREHOLDERS OR SIMILAR
5 RECORDS.

6 (18) "MONETARY VALUE" MEANS A MEDIUM OF EXCHANGE,
7 WHETHER OR NOT REDEEMABLE IN MONEY.

8 (19) (a) "MONEY" MEANS A MEDIUM OF EXCHANGE THAT IS
9 AUTHORIZED OR ADOPTED BY THE UNITED STATES OR A FOREIGN
10 GOVERNMENT.

11 (b) "MONEY" INCLUDES A MONETARY UNIT OF ACCOUNT
12 ESTABLISHED BY AN INTERGOVERNMENTAL ORGANIZATION OR BY
13 AGREEMENT BETWEEN TWO OR MORE GOVERNMENTS.

14 (20) (a) "MONEY TRANSMISSION" MEANS ANY OF THE FOLLOWING:

15 (I) SELLING OR ISSUING PAYMENT INSTRUMENTS TO A PERSON
16 LOCATED IN THIS STATE;

17 (II) SELLING OR ISSUING STORED VALUE TO A PERSON LOCATED IN
18 THIS STATE; OR

19 (III) RECEIVING MONEY FOR TRANSMISSION FROM A PERSON
20 LOCATED IN THIS STATE.

21 (b) "MONEY TRANSMISSION" INCLUDES PAYROLL PROCESSING
22 SERVICES.

23 (c) "MONEY TRANSMISSION" DOES NOT INCLUDE THE SOLE
24 PROVISION OF ONLINE OR TELECOMMUNICATIONS SERVICES OR NETWORK
25 ACCESS.

26 (21) "MSB ACCREDITED STATE" MEANS A STATE AGENCY THAT IS
27 ACCREDITED BY THE CONFERENCE OF STATE BANK SUPERVISORS AND THE

1 MONEY TRANSMITTER REGULATORS ASSOCIATION FOR MONEY
2 TRANSMISSION LICENSING AND SUPERVISION.

3 (22) "MULTISTATE LICENSING PROCESS" MEANS ANY AGREEMENT
4 ENTERED INTO BY AND AMONG STATE REGULATORS RELATING TO
5 COORDINATED PROCESSING OF APPLICATIONS FOR MONEY TRANSMISSION
6 LICENSES, APPLICATIONS FOR THE ACQUISITION OF CONTROL OF A
7 LICENSEE, CONTROL DETERMINATIONS, OR NOTICE AND INFORMATION
8 REQUIREMENTS FOR A CHANGE OF KEY INDIVIDUALS.

9 (23) "NMLS" MEANS THE NATIONWIDE MULTISTATE LICENSING
10 SYSTEM AND REGISTRY DEVELOPED BY THE CONFERENCE OF STATE BANK
11 SUPERVISORS AND THE AMERICAN ASSOCIATION OF RESIDENTIAL
12 MORTGAGE REGULATORS AND OWNED AND OPERATED BY THE STATE
13 REGULATORY REGISTRY, LLC, OR ANY SUCCESSOR OR AFFILIATED
14 ENTITY, FOR THE LICENSING AND REGISTRATION OF PERSONS IN FINANCIAL
15 SERVICES INDUSTRIES.

16 (24) (a) "OUTSTANDING MONEY TRANSMISSION OBLIGATION"
17 MEANS, AS ESTABLISHED AND EXTINGUISHED IN ACCORDANCE WITH
18 APPLICABLE STATE LAW:

19 (I) ANY PAYMENT INSTRUMENT OR STORED VALUE ISSUED OR SOLD
20 BY A LICENSEE TO A PERSON LOCATED IN THE UNITED STATES OR
21 REPORTED AS SOLD BY AN AUTHORIZED DELEGATE OF THE LICENSEE TO A
22 PERSON THAT IS LOCATED IN THE UNITED STATES THAT HAS NOT YET BEEN
23 PAID OR REFUNDED BY OR FOR THE LICENSEE OR ESCHEATED IN
24 ACCORDANCE WITH APPLICABLE ABANDONED PROPERTY LAWS; OR

25 (II) ANY MONEY RECEIVED FOR TRANSMISSION BY A LICENSEE OR
26 AN AUTHORIZED DELEGATE OF THE LICENSEE IN THE UNITED STATES FROM
27 A PERSON LOCATED IN THE UNITED STATES THAT HAS NOT BEEN RECEIVED

1 BY THE PAYEE OR REFUNDED TO THE SENDER OR ESCHEATED IN
2 ACCORDANCE WITH APPLICABLE ABANDONED PROPERTY LAWS.

3 (b) AS USED IN THIS SUBSECTION (24), "IN THE UNITED STATES"
4 MEANS, TO THE EXTENT APPLICABLE, A PERSON IN ANY STATE, TERRITORY,
5 OR POSSESSION OF THE UNITED STATES; THE DISTRICT OF COLUMBIA; THE
6 COMMONWEALTH OF PUERTO RICO; OR A UNITED STATES MILITARY
7 INSTALLATION THAT IS LOCATED IN A FOREIGN COUNTRY.

8 (25) "PASSIVE INVESTOR" MEANS A PERSON THAT:

9 (a) DOES NOT HAVE THE POWER TO ELECT A MAJORITY OF KEY
10 INDIVIDUALS OR EXECUTIVE OFFICERS, MANAGERS, DIRECTORS, TRUSTEES,
11 OR OTHER PERSONS EXERCISING MANAGERIAL AUTHORITY OF A PERSON IN
12 CONTROL OF A LICENSEE;

13 (b) IS NOT EMPLOYED BY AND DOES NOT HAVE ANY MANAGERIAL
14 DUTIES OF THE LICENSEE OR PERSON IN CONTROL OF A LICENSEE;

15 (c) DOES NOT HAVE THE POWER TO EXERCISE, DIRECTLY OR
16 INDIRECTLY, A CONTROLLING INFLUENCE OVER THE MANAGEMENT OR
17 POLICIES OF A LICENSEE OR PERSON IN CONTROL OF A LICENSEE; AND

18 (d) EITHER:

19 (I) ATTESTS TO SUBSECTIONS (25)(a) TO (25)(c) OF THIS SECTION
20 IN A FORM AND IN A MEDIUM PRESCRIBED BY THE BANKING BOARD BY
21 RULE; OR

22 (II) COMMITS TO THE PASSIVITY CHARACTERISTICS OF
23 SUBSECTIONS (25)(a) TO (25)(c) OF THIS SECTION IN A WRITTEN
24 DOCUMENT.

25 (26) (a) "PAYMENT INSTRUMENT" MEANS A WRITTEN OR
26 ELECTRONIC CHECK, DRAFT, MONEY ORDER, TRAVELER'S CHECK, OR OTHER
27 WRITTEN OR ELECTRONIC INSTRUMENT FOR THE TRANSMISSION OR

1 PAYMENT OF MONEY OR MONETARY VALUE, WHETHER OR NOT
2 NEGOTIABLE.

3 (b) "PAYMENT INSTRUMENT" DOES NOT INCLUDE STORED VALUE
4 OR ANY INSTRUMENT THAT:

5 (I) IS REDEEMABLE BY THE ISSUER ONLY FOR GOODS OR SERVICES
6 PROVIDED BY THE ISSUER OR ITS AFFILIATE OR FRANCHISEES OF THE ISSUER
7 OR THEIR AFFILIATES, EXCEPT TO THE EXTENT REQUIRED BY APPLICABLE
8 LAW TO BE REDEEMABLE IN CASH FOR ITS CASH VALUE; OR

9 (II) IS NOT SOLD TO THE PUBLIC BUT ISSUED AND DISTRIBUTED AS
10 PART OF A LOYALTY, REWARDS, OR PROMOTIONAL PROGRAM.

11 (27) (a) "PAYROLL PROCESSING SERVICES" MEANS RECEIVING
12 MONEY FOR TRANSMISSION PURSUANT TO A CONTRACT WITH A PERSON TO
13 DELIVER WAGES OR SALARIES, MAKE PAYMENT OF PAYROLL TAXES TO
14 STATE AND FEDERAL AGENCIES, MAKE PAYMENTS RELATING TO EMPLOYEE
15 BENEFIT PLANS, OR MAKE DISTRIBUTIONS OF OTHER AUTHORIZED
16 DEDUCTIONS FROM WAGES OR SALARIES.

17 (b) "PAYROLL PROCESSING SERVICES" DOES NOT INCLUDE:

18 (I) AN EMPLOYER PERFORMING PAYROLL PROCESSING SERVICES ON
19 ITS OWN BEHALF OR ON BEHALF OF ITS AFFILIATE OR A PROFESSIONAL
20 EMPLOYER ORGANIZATION SUBJECT TO REGULATION UNDER OTHER
21 APPLICABLE STATE LAW; OR

22 (II) A PERSON APPOINTED AS AN AGENT OF AN EMPLOYER FOR
23 PURPOSES OF PROVIDING PAYROLL PROCESSING SERVICES FOR WHICH THE
24 AGENT WOULD OTHERWISE NEED TO BE LICENSED, SO LONG AS ALL OF THE
25 FOLLOWING APPLY:

26 (A) THERE IS A WRITTEN AGREEMENT BETWEEN THE EMPLOYER
27 AND THE AGENT THAT DIRECTS THE AGENT TO PROVIDE PAYROLL

1 PROCESSING SERVICES ON THE EMPLOYER'S BEHALF;

2 (B) THE EMPLOYER HOLDS THE AGENT OUT TO EMPLOYEES AND
3 OTHER PAYEES AS PROVIDING PAYROLL PROCESSING SERVICES ON THE
4 EMPLOYER'S BEHALF; AND

5 (C) THE EMPLOYER'S OBLIGATION TO A PAYEE, INCLUDING AN
6 EMPLOYEE OR OTHER PARTY ENTITLED TO RECEIVE MONEY VIA THE
7 PAYROLL PROCESSING SERVICES PROVIDED BY THE AGENT, IS NOT
8 EXTINGUISHED IF THE AGENT FAILS TO REMIT THE MONEY TO THE PAYEE.

9 (28) "PERSON" MEANS ANY INDIVIDUAL, GENERAL PARTNERSHIP,
10 LIMITED PARTNERSHIP, LIMITED LIABILITY COMPANY, CORPORATION,
11 TRUST, ASSOCIATION, JOINT STOCK CORPORATION, OR OTHER CORPORATE
12 ENTITY IDENTIFIED BY THE BANKING BOARD.

13 (29) "RECEIVING MONEY FOR TRANSMISSION" OR "MONEY
14 RECEIVED FOR TRANSMISSION" MEANS RECEIVING MONEY OR MONETARY
15 VALUE IN THE UNITED STATES FOR TRANSMISSION WITHIN OR OUTSIDE THE
16 UNITED STATES BY ELECTRONIC OR OTHER MEANS.

17 (30) (a) "STORED VALUE" MEANS MONETARY VALUE THAT
18 REPRESENTS A CLAIM AGAINST THE ISSUER EVIDENCED BY AN ELECTRONIC
19 OR DIGITAL RECORD AND THAT IS INTENDED AND ACCEPTED FOR USE AS A
20 MEANS OF REDEMPTION FOR MONEY OR MONETARY VALUE OR PAYMENT
21 FOR GOODS OR SERVICES. "STORED VALUE" INCLUDES BUT IS NOT LIMITED
22 TO "PREPAID ACCESS" AS DEFINED BY 31 CFR 1010.100.

23 (b) NOTWITHSTANDING SUBSECTION (30)(a) OF THIS SECTION,
24 "STORED VALUE" DOES NOT INCLUDE A PAYMENT INSTRUMENT OR CLOSED
25 LOOP STORED VALUE OR STORED VALUE NOT SOLD TO THE PUBLIC BUT
26 ISSUED AND DISTRIBUTED AS PART OF A LOYALTY, REWARDS, OR
27 PROMOTIONAL PROGRAM.

(31) "TANGIBLE NET WORTH" MEANS THE AGGREGATE ASSETS OF A LICENSEE EXCLUDING ALL INTANGIBLE ASSETS, LESS LIABILITIES, AS DETERMINED IN ACCORDANCE WITH UNITED STATES GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

PART 3

EXEMPTIONS

11-110-301. Exemptions. (1) THIS ARTICLE 110 DOES NOT APPLY TO:

(a) AN OPERATOR OF A PAYMENT SYSTEM TO THE EXTENT THAT IT PROVIDES PROCESSING, CLEARING, OR SETTLEMENT SERVICES, BETWEEN OR AMONG PERSONS EXEMPTED BY THIS SECTION OR LICENSEES, IN CONNECTION WITH WIRE TRANSFERS, CREDIT CARD TRANSACTIONS, DEBIT CARD TRANSACTIONS, STORED-VALUE TRANSACTIONS, AUTOMATED CLEARING HOUSE TRANSFERS, OR SIMILAR MONEY TRANSFERS;

(b) A PERSON APPOINTED AS AN AGENT OF A PAYEE TO COLLECT AND PROCESS A PAYMENT FROM A PAYER TO THE PAYEE FOR GOODS OR SERVICES, OTHER THAN MONEY TRANSMISSION ITSELF, PROVIDED TO THE PAYER BY THE PAYEE, SO LONG AS:

(I) THERE EXISTS A WRITTEN AGREEMENT BETWEEN THE PAYEE AND THE AGENT DIRECTING THE AGENT TO COLLECT AND PROCESS PAYMENTS FROM PAYERS ON THE PAYEE'S BEHALF;

(II) THE PAYEE HOLDS THE AGENT OUT TO THE PUBLIC AS ACCEPTING PAYMENTS FOR GOODS OR SERVICES ON THE PAYEE'S BEHALF;
AND

(III) PAYMENT FOR THE GOODS AND SERVICES IS TREATED AS RECEIVED BY THE PAYEE UPON RECEIPT BY THE AGENT SO THAT THE PAYER'S OBLIGATION IS EXTINGUISHED AND THERE IS NO RISK OF LOSS TO

1 THE PAYER IF THE AGENT FAILS TO REMIT THE MONEY TO THE PAYEE;

2 (c) A PERSON THAT ACTS AS AN INTERMEDIARY BY PROCESSING

3 PAYMENTS BETWEEN AN ENTITY THAT HAS DIRECTLY INCURRED AN

4 OUTSTANDING MONEY TRANSMISSION OBLIGATION TO A SENDER, AND THE

5 SENDER'S DESIGNATED RECIPIENT, IF THE ENTITY:

6 (I) IS PROPERLY LICENSED OR EXEMPT FROM LICENSING

7 REQUIREMENTS UNDER THIS ARTICLE 110;

8 (II) PROVIDES A RECEIPT, ELECTRONIC RECORD, OR OTHER

9 WRITTEN CONFIRMATION TO THE SENDER IDENTIFYING THE ENTITY AS THE

10 PROVIDER OF MONEY TRANSMISSION IN THE TRANSACTION; AND

11 (III) BEARS SOLE RESPONSIBILITY TO SATISFY THE OUTSTANDING

12 MONEY TRANSMISSION OBLIGATION TO THE SENDER, INCLUDING THE

13 OBLIGATION TO MAKE THE SENDER WHOLE IN CONNECTION WITH ANY

14 FAILURE TO TRANSMIT THE MONEY TO THE SENDER'S DESIGNATED

15 RECIPIENT;

16 (d) THE UNITED STATES OR A DEPARTMENT, AGENCY, OR

17 INSTRUMENTALITY OF THE UNITED STATES OR ITS AGENT;

18 (e) MONEY TRANSMISSION BY THE UNITED STATES POSTAL

19 SERVICE OR BY AN AGENT OF THE UNITED STATES POSTAL SERVICE;

20 (f) A STATE, COUNTY, OR CITY OR ANY OTHER GOVERNMENTAL

21 AGENCY OR GOVERNMENTAL SUBDIVISION OR INSTRUMENTALITY OF A

22 STATE OR ITS AGENT;

23 (g) A FEDERALLY INSURED DEPOSITORY FINANCIAL INSTITUTION;

24 BANK HOLDING COMPANY; OFFICE OF AN INTERNATIONAL BANKING

25 CORPORATION; FOREIGN BANK THAT ESTABLISHES A FEDERAL BRANCH

26 PURSUANT TO THE FEDERAL "INTERNATIONAL BANK ACT", 12 U.S.C. SEC.

27 3102, AS AMENDED; A CORPORATION ORGANIZED PURSUANT TO THE

1 FEDERAL "BANK SERVICE CORPORATION ACT", 12 U.S.C. SECS. 1861 TO
2 1867, AS AMENDED; ■ A CORPORATION ORGANIZED UNDER THE "EDGE
3 ACT", 12 U.S.C. SECS. 611 TO 633, AS AMENDED; OR AN ENTITY
4 ORGANIZED UNDER THE GENERAL BANKING, SAVINGS AND LOAN, OR
5 CREDIT UNION LAWS OF THIS STATE, ANOTHER STATE, OR THE UNITED
6 STATES;

7 (h) ELECTRONIC FUNDS TRANSFER OF GOVERNMENTAL BENEFITS
8 FOR A FEDERAL, STATE, COUNTY, OR GOVERNMENTAL AGENCY BY A
9 CONTRACTOR ON BEHALF OF THE UNITED STATES OR A DEPARTMENT,
10 AGENCY, OR INSTRUMENTALITY OF THE UNITED STATES OR ON BEHALF OF
11 A STATE OR GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY
12 OF A STATE;

13 (i) A BOARD OF TRADE DESIGNATED AS A CONTRACT MARKET
14 UNDER THE FEDERAL "COMMODITY EXCHANGE ACT", 7 U.S.C. SECS. 1 TO
15 25, AS AMENDED, OR A PERSON THAT, IN THE ORDINARY COURSE OF
16 BUSINESS, PROVIDES CLEARANCE AND SETTLEMENT SERVICES FOR A
17 BOARD OF TRADE TO THE EXTENT OF ITS OPERATION AS OR FOR SUCH A
18 BOARD;

19 (j) A REGISTERED FUTURES COMMISSION MERCHANT UNDER
20 FEDERAL COMMODITIES LAWS TO THE EXTENT OF ITS OPERATION AS SUCH
21 A MERCHANT;

22 (k) A PERSON REGISTERED AS A SECURITIES BROKER-DEALER
23 UNDER FEDERAL OR STATE SECURITIES LAWS TO THE EXTENT OF THE
24 PERSON'S OPERATION AS SUCH A BROKER-DEALER;

25 (l) AN INDIVIDUAL EMPLOYED BY A LICENSEE, AN AUTHORIZED
26 DELEGATE, OR ANY PERSON EXEMPTED FROM THE LICENSING
27 REQUIREMENTS OF THIS ARTICLE 110 WHEN ACTING WITHIN THE SCOPE OF

1 EMPLOYMENT AND UNDER THE SUPERVISION OF THE LICENSEE,
2 AUTHORIZED DELEGATE, OR EXEMPTED PERSON AS AN EMPLOYEE AND NOT
3 AS AN INDEPENDENT CONTRACTOR;

4 (m) A PERSON EXPRESSLY APPOINTED AS A THIRD-PARTY SERVICE
5 PROVIDER TO OR AGENT OF AN ENTITY EXEMPT UNDER SUBSECTION (1)(g)
6 OF THIS SECTION, SOLELY TO THE EXTENT THAT:

7 (I) THE SERVICE PROVIDER OR AGENT IS ENGAGING IN MONEY
8 TRANSMISSION ON BEHALF OF AND PURSUANT TO A WRITTEN AGREEMENT
9 WITH THE EXEMPT ENTITY THAT SETS FORTH THE SPECIFIC FUNCTIONS
10 THAT THE SERVICE PROVIDER OR AGENT IS TO PERFORM; AND

11 (II) THE EXEMPT ENTITY ASSUMES ALL RISK OF LOSS AND ALL
12 LEGAL RESPONSIBILITY FOR SATISFYING THE OUTSTANDING MONEY
13 TRANSMISSION OBLIGATIONS OWED TO PURCHASERS AND HOLDERS OF THE
14 OUTSTANDING MONEY TRANSMISSION OBLIGATIONS UPON RECEIPT OF THE
15 PURCHASER'S OR HOLDER'S MONEY OR MONETARY VALUE BY THE SERVICE
16 PROVIDER OR AGENT; OR

17 (n) A PERSON EXEMPT BY REGULATION OR ORDER IF THE BANKING
18 BOARD FINDS AN EXEMPTION TO BE IN THE PUBLIC INTEREST AND THAT THE
19 REGULATION OF SUCH PERSON IS NOT NECESSARY FOR THE PURPOSES OF
20 THIS ARTICLE 110.

21 **11-110-302. Authority to require demonstration of exemption.**

22 THE BANKING BOARD MAY REQUIRE THAT A PERSON CLAIMING TO BE
23 EXEMPT FROM LICENSING PURSUANT TO SECTION 11-110-301 PROVIDE
24 INFORMATION AND DOCUMENTATION TO THE BOARD DEMONSTRATING
25 THAT THE PERSON QUALIFIES FOR THE CLAIMED EXEMPTION.

26 **PART 4**

27 **IMPLEMENTATION, CONFIDENTIALITY, SUPERVISION,**

1 AND RELATIONSHIP TO FEDERAL LAW

2 **11-110-401. Implementation - rules. (1) Powers.** IN ORDER TO

3 CARRY OUT THE PURPOSES OF THIS ARTICLE 110, THE BANKING BOARD
4 MAY, SUBJECT TO THE PROVISIONS OF SECTION 11-110-402 (1) AND (2):

5 (a) ENTER INTO AGREEMENTS OR RELATIONSHIPS WITH OTHER
6 GOVERNMENT OFFICIALS OR FEDERAL AND STATE REGULATORY AGENCIES
7 AND REGULATORY ASSOCIATIONS IN ORDER TO IMPROVE EFFICIENCIES AND
8 REDUCE REGULATORY BURDEN BY STANDARDIZING METHODS OR
9 PROCEDURES AND SHARING RESOURCES, RECORDS, OR RELATED
10 INFORMATION OBTAINED UNDER THIS ARTICLE 110;

11 (b) USE, HIRE, CONTRACT, OR EMPLOY ANALYTICAL SYSTEMS,
12 METHODS, OR SOFTWARE TO EXAMINE OR INVESTIGATE ANY PERSON
13 SUBJECT TO THIS ARTICLE 110;

14 (c) ACCEPT, FROM OTHER STATE OR FEDERAL GOVERNMENTAL
15 AGENCIES OR OFFICIALS, LICENSING, EXAMINATION, OR INVESTIGATION
16 REPORTS MADE BY SUCH OTHER STATE OR FEDERAL GOVERNMENTAL
17 AGENCIES OR OFFICIALS; AND

18 (d) ACCEPT AUDIT REPORTS MADE BY AN INDEPENDENT CERTIFIED
19 PUBLIC ACCOUNTANT OR OTHER QUALIFIED THIRD-PARTY AUDITOR FOR AN
20 APPLICANT OR LICENSEE AND INCORPORATE THE AUDIT REPORT IN ANY
21 REPORT OF EXAMINATION OR INVESTIGATION.

22 (2) **Broad administrative authority - rules.** (a) THE BANKING
23 BOARD HAS BROAD ADMINISTRATIVE AUTHORITY TO:

24 (I) ADMINISTER, INTERPRET, AND ENFORCE THIS ARTICLE 110;

25 (II) ADOPT RULES IMPLEMENTING THIS ARTICLE 110, INCLUDING
26 RULES TO CONFORM TO APPLICABLE FEDERAL REGULATIONS;

27 (III) RECOVER THE COST OF ADMINISTERING AND ENFORCING THIS

1 ARTICLE 110 BY IMPOSING AND COLLECTING PROPORTIONATE AND
2 EQUITABLE FEES AND COSTS ASSOCIATED WITH APPLICATIONS,
3 EXAMINATIONS, AND INVESTIGATIONS; AND

4 (IV) TAKE OTHER REASONABLE ACTIONS REQUIRED TO ACHIEVE
5 THE PURPOSES OF THIS ARTICLE 110.

6 (b) THE POWERS, DUTIES, AND FUNCTIONS OF THE BANKING BOARD
7 AND THE COMMISSIONER SET FORTH IN ARTICLE 102 OF THIS TITLE 11 AND
8 THE DECLARATION OF POLICY SET FORTH IN SECTION 11-101-102 APPLY TO
9 THIS ARTICLE 110. FOR PURPOSES OF THIS SECTION AND SECTION
10 11-102-104, THE BANKING BOARD HAS THE SAME POWERS, DUTIES, AND
11 FUNCTIONS CONCERNING A VIOLATION OF THIS ARTICLE 110, OR A RULE
12 ADOPTED PURSUANT TO THIS ARTICLE 110, AS THE BOARD HAS
13 CONCERNING A VIOLATION OF THE "COLORADO BANKING CODE",
14 ARTICLES 101 TO 109 AND ARTICLE 10.5 OF THIS TITLE 11, OR A RULE
15 ADOPTED PURSUANT TO THAT CODE.

16 **11-110-402. Confidentiality.** (1) EXCEPT AS OTHERWISE
17 PROVIDED IN SUBSECTION (2) OF THIS SECTION, ALL INFORMATION OR
18 REPORTS OBTAINED BY THE BANKING BOARD FROM AN APPLICANT,
19 LICENSEE, OR AUTHORIZED DELEGATE, AND ALL INFORMATION CONTAINED
20 IN OR RELATED TO AN EXAMINATION, INVESTIGATION, OPERATING REPORT,
21 OR CONDITION REPORT PREPARED BY, ON BEHALF OF, OR FOR THE USE OF
22 THE BOARD, OR FINANCIAL STATEMENTS, BALANCE SHEETS, OR
23 AUTHORIZED DELEGATE INFORMATION, ARE CONFIDENTIAL AND ARE NOT
24 SUBJECT TO DISCLOSURE UNDER THE "COLORADO OPEN RECORDS ACT",
25 PART 2 OF ARTICLE 72 OF TITLE 24.

26 (2) THE BANKING BOARD MAY DISCLOSE INFORMATION NOT
27 OTHERWISE SUBJECT TO DISCLOSURE UNDER SUBSECTION (1) OF THIS

1 SECTION TO REPRESENTATIVES OF STATE OR FEDERAL AGENCIES WHO
2 PROMISE IN A RECORD THAT THEY WILL MAINTAIN THE CONFIDENTIALITY
3 OF THE INFORMATION OR WHERE THE BOARD FINDS THAT THE RELEASE IS
4 REASONABLY NECESSARY FOR THE PROTECTION AND INTEREST OF THE
5 PUBLIC.

6 (3) THIS SECTION DOES NOT PROHIBIT THE BANKING BOARD FROM
7 DISCLOSING TO THE PUBLIC A LIST OF ALL LICENSEES OR THE AGGREGATED
8 FINANCIAL OR TRANSACTIONAL DATA CONCERNING THOSE LICENSEES.

9 (4) INFORMATION CONTAINED IN THE RECORDS OF THE DIVISION
10 THAT IS NOT CONFIDENTIAL AND MAY BE MADE AVAILABLE TO THE PUBLIC
11 EITHER ON THE DIVISION'S WEBSITE, UPON RECEIPT BY THE DIVISION OF A
12 WRITTEN REQUEST, OR IN NMLS MUST INCLUDE:

13 (a) THE NAME, BUSINESS ADDRESS, TELEPHONE NUMBER, AND
14 UNIQUE IDENTIFIER OF A LICENSEE;

15 (b) THE BUSINESS ADDRESS OF A LICENSEE'S REGISTERED AGENT
16 FOR SERVICE;

17 (c) THE NAME, BUSINESS ADDRESS, AND TELEPHONE NUMBER OF
18 ALL AUTHORIZED DELEGATES;

19 (d) THE TERMS OF OR A COPY OF ANY BOND FILED BY A LICENSEE,
20 SO LONG AS CONFIDENTIAL INFORMATION, INCLUDING BUT NOT LIMITED TO
21 PRICES AND FEES, FOR SUCH BOND IS REDACTED;

22 (e) COPIES OF ANY NONCONFIDENTIAL FINAL ORDERS OF THE
23 DIVISION RELATING TO ANY VIOLATION OF THIS ARTICLE 110 OR RULES
24 IMPLEMENTING THIS ARTICLE 110; AND

25 (f) IMPOSITION OF AN ADMINISTRATIVE FINE OR PENALTY UNDER
26 THIS ARTICLE 110.

27 **11-110-403. Supervision.** (1) THE BANKING BOARD MAY

1 CONDUCT AN EXAMINATION OR INVESTIGATION OF A LICENSEE OR
2 AUTHORIZED DELEGATE OR OTHERWISE TAKE INDEPENDENT ACTION
3 AUTHORIZED BY THIS ARTICLE 110 OR BY A RULE ADOPTED OR ORDER
4 ISSUED UNDER THIS ARTICLE 110 AS REASONABLY NECESSARY OR
5 APPROPRIATE TO ADMINISTER AND ENFORCE THIS ARTICLE 110, RULES
6 IMPLEMENTING THIS ARTICLE 110, AND OTHER APPLICABLE LAW,
7 INCLUDING THE BANK SECRECY ACT AND THE FEDERAL "USA PATRIOT
8 ACT", PUB.L. 107-56. THE BANKING BOARD MAY:

9 (a) CONDUCT AN EXAMINATION EITHER ON SITE OR OFF SITE AS THE
10 BOARD MAY REASONABLY REQUIRE;

11 (b) CONDUCT AN EXAMINATION IN CONJUNCTION WITH AN
12 EXAMINATION CONDUCTED BY REPRESENTATIVES OF OTHER STATE
13 AGENCIES OR AGENCIES OF ANOTHER STATE OR OF THE FEDERAL
14 GOVERNMENT;

15 (c) ACCEPT THE EXAMINATION REPORT OF ANOTHER STATE
16 AGENCY OR AN AGENCY OF ANOTHER STATE OR OF THE FEDERAL
17 GOVERNMENT, OR A REPORT PREPARED BY AN INDEPENDENT ACCOUNTING
18 FIRM, WHICH, UPON BEING ACCEPTED, IS CONSIDERED FOR ALL PURPOSES
19 AS AN OFFICIAL REPORT OF THE BOARD; AND

20 (d) SUMMON AND EXAMINE UNDER OATH A KEY INDIVIDUAL OR
21 EMPLOYEE OF A LICENSEE OR AUTHORIZED DELEGATE AND REQUIRE THE
22 KEY INDIVIDUAL, EMPLOYEE, OR AUTHORIZED DELEGATE TO PRODUCE
23 RECORDS REGARDING ANY MATTER RELATED TO THE CONDITION AND
24 BUSINESS OF THE LICENSEE OR AUTHORIZED DELEGATE.

25 (2) A LICENSEE OR AUTHORIZED DELEGATE SHALL PROVIDE, AND
26 THE BANKING BOARD SHALL HAVE FULL AND COMPLETE ACCESS TO, ALL
27 RECORDS THE BOARD MAY REQUIRE TO CONDUCT A COMPLETE

1 EXAMINATION. THE RECORDS MUST BE PROVIDED AT THE LOCATION AND
2 IN THE FORMAT SPECIFIED BY THE BOARD; HOWEVER, THE BOARD MAY
3 UTILIZE MULTISTATE RECORD PRODUCTION STANDARDS AND
4 EXAMINATION PROCEDURES WHEN SUCH STANDARDS WILL REASONABLY
5 ACHIEVE THE REQUIREMENTS OF THIS SUBSECTION (2).

6 (3) UNLESS OTHERWISE DIRECTED BY THE BANKING BOARD, A
7 LICENSEE SHALL PAY ALL COSTS REASONABLY INCURRED IN CONNECTION
8 WITH AN EXAMINATION OF THE LICENSEE OR THE LICENSEE'S AUTHORIZED
9 DELEGATES.

10 **11-110-404. Networked supervision.** (1) TO EFFICIENTLY AND
11 EFFECTIVELY ADMINISTER AND ENFORCE THIS ARTICLE 110 AND TO
12 MINIMIZE REGULATORY BURDEN, THE BANKING BOARD MAY PARTICIPATE
13 IN MULTISTATE SUPERVISORY PROCESSES ESTABLISHED BETWEEN STATES
14 AND COORDINATED THROUGH THE CONFERENCE OF STATE BANK
15 SUPERVISORS, THE MONEY TRANSMITTER REGULATORS ASSOCIATION,
16 AND AFFILIATES AND SUCCESSORS THEREOF FOR ALL LICENSEES THAT
17 HOLD LICENSES IN THIS STATE AND OTHER STATES. AS A PARTICIPANT IN
18 MULTISTATE SUPERVISION, THE BANKING BOARD SHALL:

19 (a) COOPERATE, COORDINATE, AND SHARE INFORMATION WITH
20 OTHER STATE AND FEDERAL REGULATORS IN ACCORDANCE WITH SECTION
21 11-110-402;

22 (b) ENTER INTO WRITTEN COOPERATION, COORDINATION, OR
23 INFORMATION-SHARING CONTRACTS OR AGREEMENTS WITH
24 ORGANIZATIONS, THE MEMBERSHIP OF WHICH IS MADE UP OF STATE OR
25 FEDERAL GOVERNMENTAL AGENCIES; AND

26 (c) COOPERATE, COORDINATE, AND SHARE INFORMATION WITH
27 ORGANIZATIONS, THE MEMBERSHIP OF WHICH IS MADE UP OF STATE OR

1 FEDERAL GOVERNMENTAL AGENCIES, IF THE ORGANIZATIONS AGREE IN
2 WRITING TO MAINTAIN THE CONFIDENTIALITY AND SECURITY OF THE
3 SHARED INFORMATION IN ACCORDANCE WITH SECTION 11-110-402.

4 (2) THE BANKING BOARD DOES NOT WAIVE, AND NOTHING IN THIS
5 SECTION CONSTITUTES A WAIVER OF, THE BOARD'S AUTHORITY TO
6 CONDUCT AN EXAMINATION OR INVESTIGATION OR OTHERWISE TAKE
7 INDEPENDENT ACTION AUTHORIZED BY THIS ARTICLE 110 OR A RULE
8 ADOPTED OR ORDER ISSUED UNDER THIS ARTICLE 110 TO ENFORCE
9 COMPLIANCE WITH APPLICABLE STATE OR FEDERAL LAW.

10 (3) A JOINT EXAMINATION OR INVESTIGATION, OR ACCEPTANCE OF
11 AN EXAMINATION OR INVESTIGATION REPORT, DOES NOT WAIVE AN
12 EXAMINATION ASSESSMENT PROVIDED FOR IN THIS ARTICLE 110.

13 **11-110-405. Relationship to federal law - interpretative**
14 **guidance.** (1) IN THE EVENT STATE MONEY TRANSMISSION JURISDICTION
15 IS CONDITIONED ON A FEDERAL LAW, ANY INCONSISTENCIES BETWEEN A
16 PROVISION OF THIS ARTICLE 110 AND FEDERAL LAW GOVERNING MONEY
17 TRANSMISSION IS GOVERNED BY THE APPLICABLE FEDERAL LAW TO THE
18 EXTENT OF THE INCONSISTENCY.

19 (2) IN THE EVENT OF ANY INCONSISTENCIES BETWEEN THIS
20 ARTICLE 110 AND FEDERAL LAW THAT GOVERNS MONEY TRANSMISSION
21 PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE BANKING BOARD MAY
22 PROVIDE INTERPRETIVE GUIDANCE THAT:

23 (a) IDENTIFIES THE INCONSISTENCY; AND

24 (b) IDENTIFIES THE APPROPRIATE MEANS OF COMPLIANCE WITH
25 FEDERAL LAW.

26 PART 5

27 MONEY TRANSMISSION LICENSES

1 **11-110-501. License required.** (1) A PERSON SHALL NOT ENGAGE
2 IN THE BUSINESS OF MONEY TRANSMISSION OR ADVERTISE, SOLICIT, OR
3 MAKE REPRESENTATIONS THAT THE PERSON MAY PROVIDE MONEY
4 TRANSMISSION UNLESS THE PERSON IS LICENSED UNDER THIS ARTICLE 110.

5 (2) SUBSECTION (1) OF THIS SECTION DOES NOT APPLY TO:

6 (a) A PERSON THAT IS AN AUTHORIZED DELEGATE OF A PERSON
7 LICENSED UNDER THIS ARTICLE 110 ACTING WITHIN THE SCOPE OF
8 AUTHORITY CONFERRED BY A WRITTEN CONTRACT WITH THE LICENSEE; OR

9 (b) A PERSON THAT IS EXEMPT PURSUANT TO SECTION 11-110-301
10 AND DOES NOT ENGAGE IN MONEY TRANSMISSION OUTSIDE THE SCOPE OF
11 SUCH EXEMPTION.

12 **11-110-502. Consistent state licensing - rules.** (1) TO ESTABLISH
13 CONSISTENT LICENSING BETWEEN COLORADO AND OTHER STATES, THE
14 BANKING BOARD MAY:

15 (a) IMPLEMENT ALL LICENSING PROVISIONS OF THIS ARTICLE 110
16 IN A MANNER THAT IS CONSISTENT WITH OTHER STATES THAT HAVE
17 ADOPTED LAWS REGULATING MONEY TRANSMISSION THAT ARE SIMILAR TO
18 THE PROVISIONS OF THIS ARTICLE 110 OR MULTISTATE LICENSING
19 PROCESSES; AND

20 (b) PARTICIPATE IN NATIONWIDE PROTOCOLS FOR LICENSING
21 COOPERATION AND COORDINATION AMONG STATE REGULATORS IF SUCH
22 PROTOCOLS ARE CONSISTENT WITH THIS ARTICLE 110.

23 (2) IN ORDER TO FULFILL THE PURPOSES OF THIS ARTICLE 110, THE
24 BANKING BOARD MAY ESTABLISH RELATIONSHIPS OR CONTRACTS WITH
25 NMLS OR OTHER ENTITIES DESIGNATED BY NMLS TO ENABLE THE BOARD
26 TO:

27 (a) COLLECT AND MAINTAIN RECORDS;

1 (b) COORDINATE MULTISTATE LICENSING PROCESSES AND
2 SUPERVISION PROCESSES;

3 (c) PROCESS FEES; AND

4 (d) FACILITATE COMMUNICATION BETWEEN COLORADO AND
5 LICENSEES OR OTHER PERSONS SUBJECT TO THIS ARTICLE 110.

6 (3) THE BANKING BOARD MAY UTILIZE NMLS FOR ALL ASPECTS OF
7 LICENSING IN ACCORDANCE WITH THIS ARTICLE 110, INCLUDING BUT NOT
8 LIMITED TO LICENSE APPLICATIONS, APPLICATIONS FOR ACQUISITIONS OF
9 CONTROL, SURETY BONDS, REPORTING, CRIMINAL HISTORY BACKGROUND
10 CHECKS, CREDIT CHECKS, FEE PROCESSING, AND EXAMINATIONS.

11 (4) THE BANKING BOARD MAY UTILIZE NMLS FORMS, PROCESSES,
12 AND FUNCTIONALITIES IN ACCORDANCE WITH THIS ARTICLE 110. IN THE
13 EVENT NMLS DOES NOT PROVIDE FORMS, PROCESSES, OR
14 FUNCTIONALITIES FOR A PROVISION OF THIS ARTICLE 110, THE BOARD MAY
15 IMPLEMENT THIS ARTICLE 110 IN A MANNER THAT FACILITATES
16 UNIFORMITY WITH RESPECT TO LICENSING, SUPERVISION, REPORTING, AND
17 REGULATION OF LICENSEES THAT ARE LICENSED IN MULTIPLE
18 JURISDICTIONS.

19 (5) **Waive or modify requirements.** FOR THE PURPOSE OF
20 PARTICIPATING IN NMLS, THE BANKING BOARD MAY WAIVE OR MODIFY,
21 IN WHOLE OR IN PART, BY RULE OR ORDER, ANY OR ALL OF THE
22 REQUIREMENTS AND ESTABLISH NEW REQUIREMENTS AS REASONABLY
23 NECESSARY TO PARTICIPATE IN NMLS.

24 **11-110-503. Application for license - license fee - rules.** (1) AN
25 APPLICANT FOR A LICENSE SHALL APPLY WITH THE BANKING BOARD IN A
26 FORM AND IN A MEDIUM PRESCRIBED BY THE BOARD. THE BOARD BY RULE
27 OR PROCEDURE SHALL DETERMINE THE CONTENT OF THE APPLICATION AND

1 MAY CHANGE OR UPDATE THE APPLICATION IN ACCORDANCE WITH
2 APPLICABLE LAW OR TO CARRY OUT THE PURPOSES OF THIS ARTICLE 110
3 AND MAINTAIN CONSISTENCY WITH NMLS LICENSING STANDARDS OR
4 PRACTICES. THE APPLICATION MUST STATE OR CONTAIN, AS APPLICABLE:

5 (a) THE LEGAL NAME AND RESIDENTIAL AND BUSINESS ADDRESSES
6 OF THE APPLICANT AND ANY FICTITIOUS OR TRADE NAME USED BY THE
7 APPLICANT IN CONDUCTING THE APPLICANT'S BUSINESS;

8 (b) A LIST OF ANY CRIMINAL CONVICTIONS OF THE APPLICANT AND
9 ANY MATERIAL LITIGATION IN WHICH THE APPLICANT HAS BEEN INVOLVED
10 IN THE TEN-YEAR PERIOD IMMEDIATELY PRECEDING THE SUBMISSION OF
11 THE APPLICATION;

12 (c) A DESCRIPTION OF ANY MONEY TRANSMISSION PREVIOUSLY
13 PROVIDED BY THE APPLICANT AND THE MONEY TRANSMISSION THAT THE
14 APPLICANT SEEKS TO PROVIDE IN THIS STATE;

15 (d) A LIST OF THE APPLICANT'S PROPOSED AUTHORIZED DELEGATES
16 AND THE LOCATIONS IN THIS STATE WHERE THE APPLICANT AND THE
17 APPLICANT'S AUTHORIZED DELEGATES PROPOSE TO ENGAGE IN MONEY
18 TRANSMISSION;

19 (e) A LIST OF OTHER STATES IN WHICH THE APPLICANT IS LICENSED
20 TO ENGAGE IN MONEY TRANSMISSION AND ANY LICENSE REVOCATIONS,
21 SUSPENSIONS, OR OTHER DISCIPLINARY ACTION TAKEN AGAINST THE
22 APPLICANT IN ANOTHER STATE;

23 (f) INFORMATION CONCERNING ANY BANKRUPTCY OR
24 RECEIVERSHIP PROCEEDINGS AFFECTING THE APPLICANT OR A PERSON IN
25 CONTROL OF AN APPLICANT;

26 (g) A SAMPLE FORM OF CONTRACT FOR AUTHORIZED DELEGATES,
27 IF APPLICABLE;

1 (h) A SAMPLE FORM OF PAYMENT INSTRUMENT OR STORED VALUE,
2 AS APPLICABLE;

3 (i) THE NAME AND ADDRESS OF ANY FEDERALLY INSURED
4 DEPOSITORY FINANCIAL INSTITUTION THROUGH WHICH THE APPLICANT
5 PLANS TO CONDUCT MONEY TRANSMISSION; AND

6 (j) ANY OTHER INFORMATION THE BOARD OR NMLS REASONABLY
7 REQUIRES WITH RESPECT TO THE APPLICANT.

8 (2) IF AN APPLICANT IS A CORPORATION, LIMITED LIABILITY
9 COMPANY, PARTNERSHIP, OR OTHER LEGAL ENTITY, THE APPLICANT SHALL
10 ALSO PROVIDE:

11 (a) THE DATE OF THE APPLICANT'S INCORPORATION OR FORMATION
12 AND STATE OR COUNTRY OF INCORPORATION OR FORMATION;

13 (b) IF APPLICABLE, A CERTIFICATE OF GOOD STANDING FROM THE
14 STATE OR COUNTRY IN WHICH THE APPLICANT IS INCORPORATED OR
15 FORMED;

16 (c) A BRIEF DESCRIPTION OF THE STRUCTURE OR ORGANIZATION OF
17 THE APPLICANT, INCLUDING ANY PARENTS OR SUBSIDIARIES OF THE
18 APPLICANT, AND WHETHER ANY PARENTS OR SUBSIDIARIES ARE PUBLICLY
19 TRADED;

20 (d) THE LEGAL NAME, ANY FICTITIOUS OR TRADE NAME, ALL
21 BUSINESS AND RESIDENTIAL ADDRESSES, AND THE EMPLOYMENT, AS
22 APPLICABLE, IN THE TEN-YEAR PERIOD IMMEDIATELY PRECEDING THE
23 SUBMISSION OF THE APPLICATION OF EACH KEY INDIVIDUAL AND PERSON
24 IN CONTROL OF THE APPLICANT;

25 (e) A LIST OF ANY CRIMINAL CONVICTIONS AND MATERIAL
26 LITIGATION IN WHICH A PERSON IN CONTROL OF THE APPLICANT THAT IS
27 NOT AN INDIVIDUAL HAS BEEN INVOLVED IN THE TEN-YEAR PERIOD

1 IMMEDIATELY PRECEDING THE SUBMISSION OF THE APPLICATION;

2 (f) A COPY OF AUDITED FINANCIAL STATEMENTS OF THE APPLICANT

3 FOR THE MOST RECENT FISCAL YEAR AND FOR THE TWO-YEAR PERIOD

4 IMMEDIATELY PRECEDING THE SUBMISSION OF THE APPLICATION OR, IF

5 DETERMINED TO BE ACCEPTABLE TO THE BANKING BOARD, CERTIFIED

6 UNAUDITED FINANCIAL STATEMENTS FOR THE MOST RECENT FISCAL YEAR

7 OR OTHER PERIOD ACCEPTABLE TO THE BOARD;

8 (g) A CERTIFIED COPY OF UNAUDITED FINANCIAL STATEMENTS OF

9 THE APPLICANT FOR THE MOST RECENT FISCAL QUARTER;

10 (h) IF THE APPLICANT IS A PUBLICLY TRADED CORPORATION, A

11 COPY OF THE MOST RECENT REPORT FILED WITH THE UNITED STATES

12 SECURITIES AND EXCHANGE COMMISSION UNDER SECTION 13 OF THE

13 FEDERAL "SECURITIES EXCHANGE ACT OF 1934", 15 U.S.C. SEC. 78m, AS

14 AMENDED;

15 (i) IF THE APPLICANT IS A WHOLLY OWNED SUBSIDIARY OF:

16 (I) A CORPORATION PUBLICLY TRADED IN THE UNITED STATES, A

17 COPY OF AUDITED FINANCIAL STATEMENTS FOR THE PARENT CORPORATION

18 FOR THE MOST RECENT FISCAL YEAR OR A COPY OF THE PARENT

19 CORPORATION'S MOST RECENT REPORT FILED UNDER SECTION 13 OF THE

20 FEDERAL "SECURITIES EXCHANGE ACT OF 1934", 15 U.S.C. SEC. 78m, AS

21 AMENDED; OR

22 (II) A CORPORATION PUBLICLY TRADED OUTSIDE THE UNITED

23 STATES, A COPY OF SIMILAR DOCUMENTATION FILED WITH THE REGULATOR

24 OF THE PARENT CORPORATION'S DOMICILE OUTSIDE THE UNITED STATES;

25 (j) THE NAME AND ADDRESS OF THE APPLICANT'S REGISTERED

26 AGENT IN THIS STATE; AND

27 (k) ANY OTHER INFORMATION THE BANKING BOARD REASONABLY

1 REQUIRES WITH RESPECT TO THE APPLICANT.

2 (3) AN APPLICANT MUST SUBMIT A NONREFUNDABLE LICENSE FEE,
3 AS DETERMINED BY THE BANKING BOARD, WITH THE APPLICATION FOR A
4 LICENSE.

5 (4) THE BANKING BOARD MAY WAIVE ONE OR MORE
6 REQUIREMENTS OF SUBSECTION (1) OR (2) OF THIS SECTION OR PERMIT AN
7 APPLICANT TO SUBMIT OTHER INFORMATION IN LIEU OF THE REQUIRED
8 INFORMATION.

9 **11-110-504. Information requirements for certain individuals**
10 **- background check - name-based judicial record check.** (1) AN
11 INDIVIDUAL IN CONTROL OF A LICENSEE OR APPLICANT, AN INDIVIDUAL
12 THAT SEEKS TO ACQUIRE CONTROL OF A LICENSEE, AND EACH KEY
13 INDIVIDUAL SHALL FURNISH TO THE BANKING BOARD THROUGH NMLS
14 THE FOLLOWING ITEMS:

15 (a) THE INDIVIDUAL'S FINGERPRINTS FOR SUBMISSION TO THE
16 FEDERAL BUREAU OF INVESTIGATION AND THE BOARD FOR PURPOSES OF A
17 NATIONAL CRIMINAL HISTORY BACKGROUND CHECK UNLESS THE PERSON
18 CURRENTLY RESIDES OUTSIDE OF THE UNITED STATES AND HAS RESIDED
19 OUTSIDE OF THE UNITED STATES FOR THE LAST TEN YEARS; AND

20 (b) PERSONAL HISTORY AND EXPERIENCE IN A FORM AND IN A
21 MEDIUM PRESCRIBED BY THE BOARD TO OBTAIN THE FOLLOWING:

22 (I) INFORMATION RELATED TO ANY CRIMINAL CONVICTIONS OR
23 PENDING CHARGES; AND

24 (II) INFORMATION RELATED TO ANY REGULATORY OR
25 ADMINISTRATIVE ACTION AND ANY CIVIL LITIGATION INVOLVING CLAIMS
26 OF FRAUD, MISREPRESENTATION, CONVERSION, MISMANAGEMENT OF
27 MONEY, BREACH OF FIDUCIARY DUTY, OR BREACH OF CONTRACT.

1 (2) IF THE INDIVIDUAL DESCRIBED IN SUBSECTION (1) OF THIS
2 SECTION HAS RESIDED OUTSIDE OF THE UNITED STATES AT ANY TIME IN
3 THE LAST TEN YEARS, THE INDIVIDUAL SHALL ALSO PROVIDE TO THE
4 BANKING BOARD AN INVESTIGATIVE BACKGROUND REPORT PREPARED BY
5 AN INDEPENDENT SEARCH FIRM THAT MEETS THE FOLLOWING
6 REQUIREMENTS:

7 (a) AT A MINIMUM, THE SEARCH FIRM SHALL:

8 (I) DEMONSTRATE THAT IT HAS SUFFICIENT KNOWLEDGE AND
9 RESOURCES AND EMPLOYS ACCEPTED AND REASONABLE METHODOLOGIES
10 TO CONDUCT THE RESEARCH OF THE BACKGROUND REPORT; AND

11 (II) NOT BE AFFILIATED WITH OR HAVE AN INTEREST WITH THE
12 INDIVIDUAL IT IS RESEARCHING.

13 (b) AT A MINIMUM, THE INVESTIGATIVE BACKGROUND REPORT
14 MUST BE WRITTEN IN THE ENGLISH LANGUAGE AND MUST CONTAIN THE
15 FOLLOWING:

16 (I) CRIMINAL RECORDS INFORMATION FOR THE PAST TEN YEARS,
17 INCLUDING BUT NOT LIMITED TO FELONIES, MISDEMEANORS, OR SIMILAR
18 CONVICTIONS FOR VIOLATIONS OF LAW IN THE COUNTRIES, PROVINCES,
19 STATES, CITIES, TOWNS, AND CONTIGUOUS AREAS WHERE THE INDIVIDUAL
20 RESIDED AND WORKED;

21 (II) EMPLOYMENT HISTORY;

22 (III) MEDIA HISTORY, INCLUDING AN ELECTRONIC SEARCH OF
23 NATIONAL AND LOCAL PUBLICATIONS, WIRE SERVICES, AND BUSINESS
24 APPLICATIONS; AND

25 (IV) FINANCIAL SERVICES-RELATED REGULATORY HISTORY,
26 INCLUDING BUT NOT LIMITED TO MONEY TRANSMISSION, SECURITIES,
27 BANKING, INSURANCE, AND MORTGAGE-RELATED INDUSTRIES.

1 (3) WHEN THE RESULTS OF A CRIMINAL HISTORY RECORD CHECK
2 PERFORMED PURSUANT TO THIS SECTION REVEAL A RECORD OF ARREST
3 WITHOUT A DISPOSITION, THE BOARD SHALL REQUIRE THE INDIVIDUAL TO
4 SUBMIT TO AND PAY THE REQUIRED COST FOR A NAME-BASED JUDICIAL
5 RECORD CHECK, AS DEFINED IN SECTION 22-2-119.3 (6)(d).

6 **11-110-505. Issuance of license - investigation of financial**
7 **condition - initial license term - denial - appeal. (1)** WHEN AN
8 APPLICATION FOR AN ORIGINAL LICENSE APPEARS TO INCLUDE ALL THE
9 ITEMS AND ADDRESSES ALL OF THE MATTERS THAT ARE REQUIRED
10 PURSUANT TO THIS ARTICLE 110, THE APPLICATION IS COMPLETE, AND THE
11 BANKING BOARD SHALL PROMPTLY NOTIFY THE APPLICANT IN A RECORD
12 OF THE DATE ON WHICH THE APPLICATION IS DETERMINED TO BE COMPLETE
13 AND THE DATE OF SCHEDULED ACTION BY THE BOARD.

14 (2) A DETERMINATION BY THE BANKING BOARD THAT AN
15 APPLICATION IS COMPLETE AND IS ACCEPTED FOR PROCESSING MEANS
16 ONLY THAT THE APPLICATION, ON ITS FACE, APPEARS TO INCLUDE ALL OF
17 THE ITEMS, INCLUDING THE CRIMINAL BACKGROUND CHECK RESPONSE
18 FROM THE FEDERAL BUREAU OF INVESTIGATION AND THE RESULTS OF A
19 NAME-BASED JUDICIAL RECORD CHECK, IF APPLICABLE, AND ADDRESSES
20 ALL OF THE MATTERS THAT ARE REQUIRED PURSUANT TO THIS ARTICLE
21 110, AND THE DETERMINATION IS NOT AN ASSESSMENT OF THE SUBSTANCE
22 OF THE APPLICATION OR OF THE SUFFICIENCY OF THE INFORMATION
23 PROVIDED.

24 (3) WHEN AN APPLICATION IS FILED AND CONSIDERED COMPLETE
25 UNDER THIS SECTION, THE BANKING BOARD SHALL INVESTIGATE THE
26 APPLICANT'S FINANCIAL CONDITION AND RESPONSIBILITY, FINANCIAL AND
27 BUSINESS EXPERIENCE, COMPETENCE, CHARACTER, AND GENERAL FITNESS.

1 THE BOARD MAY CONDUCT AN ON-SITE INVESTIGATION OF THE APPLICANT,
2 WITH THE APPLICANT PAYING THE REASONABLE COST OF THE
3 INVESTIGATION. THE BOARD SHALL ISSUE A LICENSE TO AN APPLICANT
4 UNDER THIS SECTION IF THE BOARD FINDS THAT ALL OF THE FOLLOWING
5 CONDITIONS HAVE BEEN FULFILLED:

6 (a) THE APPLICANT HAS COMPLIED WITH SECTIONS 11-110-503
7 AND 11-110-504; AND

8 (b) THE FINANCIAL CONDITION AND RESPONSIBILITY, FINANCIAL
9 AND BUSINESS EXPERIENCE, COMPETENCE, CHARACTER, AND GENERAL
10 FITNESS OF THE APPLICANT, AND THE COMPETENCE, EXPERIENCE,
11 CHARACTER, AND GENERAL FITNESS OF THE KEY INDIVIDUALS AND
12 PERSONS IN CONTROL OF THE APPLICANT, INDICATE THAT IT IS IN THE
13 INTEREST OF THE PUBLIC TO PERMIT THE APPLICANT TO ENGAGE IN MONEY
14 TRANSMISSION.

15 (4) IF AN APPLICANT USES OR IS OTHERWISE SUBJECT TO A
16 MULTISTATE LICENSING PROCESS:

17 (a) THE BANKING BOARD MAY ACCEPT THE INVESTIGATION
18 RESULTS OF A LEAD INVESTIGATIVE STATE FOR THE PURPOSE OF
19 SUBSECTION (3) OF THIS SECTION IF THE LEAD INVESTIGATIVE STATE HAS
20 SUFFICIENT STAFFING, EXPERTISE, AND MINIMUM STANDARDS; OR

21 (b) IF COLORADO IS A LEAD INVESTIGATIVE STATE, THE BANKING
22 BOARD MAY INVESTIGATE THE APPLICANT PURSUANT TO SUBSECTION (3)
23 OF THIS SECTION AND THE TIME FRAMES ESTABLISHED BY AGREEMENT
24 THROUGH THE MULTISTATE LICENSING PROCESS.

25 (5) THE BANKING BOARD SHALL ISSUE A FORMAL WRITTEN NOTICE
26 OF THE DENIAL OF A LICENSE APPLICATION WITHIN THIRTY DAYS AFTER
27 THE DECISION TO DENY THE APPLICATION. THE BOARD SHALL SET FORTH

1 IN THE NOTICE OF DENIAL THE SPECIFIC REASONS FOR THE DENIAL OF THE
2 APPLICATION. AN APPLICANT WHOSE APPLICATION IS DENIED BY THE
3 BOARD UNDER THIS SUBSECTION (5) MAY APPEAL WITHIN THIRTY DAYS
4 AFTER RECEIPT OF THE WRITTEN NOTICE OF THE DENIAL PURSUANT TO
5 STATE ADMINISTRATIVE LAW PROCEDURES.

6 (6) THE INITIAL LICENSE TERM BEGINS ON THE DAY THE LICENSE
7 IS ISSUED. THE LICENSE EXPIRES ON DECEMBER 31 OF THE YEAR IN WHICH
8 THE LICENSE TERM BEGAN; EXCEPT THAT, IF THE INITIAL LICENSE DATE IS
9 BETWEEN NOVEMBER 1 AND DECEMBER 31, THE INITIAL LICENSE TERM
10 RUNS THROUGH DECEMBER 31 OF THE FOLLOWING YEAR.

11 (7) A LICENSE ISSUED UNDER THIS SECTION IS NOT TRANSFERABLE
12 OR ASSIGNABLE.

13 **11-110-506. Renewal of license - annual fee - renewal report.**

14 (1) (a) A LICENSE ISSUED UNDER THIS ARTICLE 110 SHALL BE RENEWED
15 ANNUALLY.

16 (b) NOT MORE THAN SIXTY DAYS BEFORE THE LICENSE
17 EXPIRATION, A LICENSEE SHALL PAY AN ANNUAL LICENSE FEE TO THE
18 BANKING BOARD, AS ESTABLISHED BY THE BANKING BOARD.

19 (c) THE RENEWAL TERM IS FOR A PERIOD OF ONE YEAR AND BEGINS
20 ON JANUARY 1 OF EACH YEAR AFTER THE INITIAL LICENSE TERM AND
21 EXPIRES ON DECEMBER 31 OF THE YEAR THE RENEWAL TERM BEGINS.

22 (2) A LICENSEE SHALL SUBMIT A RENEWAL REPORT WITH THE
23 ANNUAL FEE TO THE BANKING BOARD, IN A FORM AND IN A MEDIUM
24 PRESCRIBED BY THE BOARD BY RULE. THE RENEWAL REPORT MUST STATE
25 OR CONTAIN A DESCRIPTION OF EACH MATERIAL CHANGE IN INFORMATION
26 SUBMITTED BY THE LICENSEE IN ITS ORIGINAL LICENSE APPLICATION THAT
27 HAS NOT BEEN REPORTED TO THE BOARD.

(3) THE BANKING BOARD MAY GRANT AN EXTENSION OF THE RENEWAL DATE FOR GOOD CAUSE.

(4) THE BANKING BOARD MAY UTILIZE NMLS TO PROCESS LICENSE RENEWALS IF THE FUNCTIONALITY IS CONSISTENT WITH THE REQUIREMENTS OF THIS SECTION.

11-110-507. Maintenance of license - suspension and revocation. (1) IF A LICENSEE DOES NOT CONTINUE TO MEET THE QUALIFICATIONS OR SATISFY THE REQUIREMENTS FOR AN APPLICANT FOR A NEW MONEY TRANSMISSION LICENSE DESCRIBED IN THIS ARTICLE 110, THE BANKING BOARD MAY SUSPEND OR REVOKE THE LICENSEE'S LICENSE IN ACCORDANCE WITH THE PROCEDURES ESTABLISHED BY THIS ARTICLE 110 OR OTHER APPLICABLE STATE LAW FOR SUCH SUSPENSION OR REVOCATION.

(2) AN APPLICANT FOR A MONEY TRANSMISSION LICENSE SHALL DEMONSTRATE THAT THE APPLICANT MEETS OR WILL MEET, AND A LICENSEE SHALL AT ALL TIMES MEET, THE REQUIREMENTS IN SECTIONS 11-110-1001, 11-110-1002, AND 11-110-1003.

PART 6

ACQUISITION OF CONTROL AND CHANGE OF KEY INDIVIDUAL

11-110-601. Acquisition of control - application - fee - investigation of financial condition - denial - appeal - exemptions.

(1) A PERSON, OR GROUP OF PERSONS ACTING IN CONCERT, SEEKING TO ACQUIRE CONTROL OF A LICENSEE SHALL OBTAIN THE WRITTEN APPROVAL OF THE BANKING BOARD PRIOR TO ACQUIRING CONTROL. AN INDIVIDUAL IS NOT DEEMED TO ACQUIRE CONTROL OF A LICENSEE AND IS NOT SUBJECT TO THIS SECTION IF THAT INDIVIDUAL BECOMES A KEY INDIVIDUAL IN THE

1 ORDINARY COURSE OF BUSINESS.

2 (2) A PERSON, OR GROUP OF PERSONS ACTING IN CONCERT,
3 SEEKING TO ACQUIRE CONTROL OF A LICENSEE SHALL, IN COOPERATION
4 WITH THE LICENSEE:

5 (a) SUBMIT AN APPLICATION IN A FORM AND IN A MEDIUM
6 PRESCRIBED BY THE BANKING BOARD BY RULE; AND

7 (b) SUBMIT WITH THE REQUEST FOR APPROVAL A NONREFUNDABLE
8 FEE ESTABLISHED BY THE BANKING BOARD.

9 (3) UPON REQUEST, THE BANKING BOARD MAY PERMIT A LICENSEE
10 OR A PERSON, OR GROUP OF PERSONS ACTING IN CONCERT, TO SUBMIT
11 SOME OR ALL INFORMATION REQUIRED BY THE BOARD PURSUANT TO
12 SUBSECTION (2)(a) OF THIS SECTION WITHOUT USING NMLS.

13 (4) THE APPLICATION REQUIRED BY SUBSECTION (2)(a) OF THIS
14 SECTION MUST INCLUDE INFORMATION REQUIRED BY SECTION 11-110-504
15 FOR NEW KEY INDIVIDUALS THAT HAVE NOT PREVIOUSLY COMPLETED THE
16 REQUIREMENTS OF SECTION 11-110-504 FOR A LICENSEE.

17 (5) WHEN AN APPLICATION FOR ACQUISITION OF CONTROL
18 SUBMITTED UNDER THIS SECTION APPEARS TO INCLUDE ALL THE ITEMS AND
19 ADDRESS ALL OF THE MATTERS THAT ARE REQUIRED, THE APPLICATION IS
20 CONSIDERED COMPLETE, AND THE BANKING BOARD SHALL PROMPTLY
21 NOTIFY THE APPLICANT IN A RECORD OF THE DATE ON WHICH THE
22 APPLICATION WAS DETERMINED TO BE COMPLETE AND APPROVE OR DENY
23 THE APPLICATION WITHIN **SIXTY** DAYS AFTER THE COMPLETION DATE.

24 (6) WHEN AN APPLICATION IS FILED AND CONSIDERED COMPLETE
25 PURSUANT TO SUBSECTION (5) OF THIS SECTION, THE BANKING BOARD
26 SHALL INVESTIGATE THE FINANCIAL CONDITION AND RESPONSIBILITY,
27 FINANCIAL AND BUSINESS EXPERIENCE, COMPETENCE, CHARACTER, AND

1 GENERAL FITNESS OF THE PERSON, OR GROUP OF PERSONS ACTING IN
2 CONCERT, SEEKING TO ACQUIRE CONTROL. THE BOARD SHALL APPROVE AN
3 ACQUISITION OF CONTROL PURSUANT TO THIS SECTION IF THE BOARD FINDS
4 THAT ALL OF THE FOLLOWING CONDITIONS HAVE BEEN FULFILLED:

5 (a) THE REQUIREMENTS OF SUBSECTIONS (2) AND (4) OF THIS
6 SECTION HAVE BEEN MET, AS APPLICABLE; AND

7 (b) THE FINANCIAL CONDITION AND RESPONSIBILITY, FINANCIAL
8 AND BUSINESS EXPERIENCE, COMPETENCE, CHARACTER, AND GENERAL
9 FITNESS OF THE PERSON, OR GROUP OF PERSONS ACTING IN CONCERT,
10 SEEKING TO ACQUIRE CONTROL, AND THE COMPETENCE, EXPERIENCE,
11 CHARACTER, AND GENERAL FITNESS OF THE KEY INDIVIDUALS AND
12 PERSONS THAT WOULD BE IN CONTROL OF THE LICENSEE AFTER THE
13 ACQUISITION OF CONTROL, INDICATE THAT IT IS IN THE INTEREST OF THE
14 PUBLIC TO PERMIT THE PERSON, OR GROUP OF PERSONS ACTING IN
15 CONCERT, TO CONTROL THE LICENSEE.

16 (7) IF AN APPLICANT USES OR IS OTHERWISE SUBJECT TO A
17 MULTISTATE LICENSING PROCESS:

18 (a) THE BANKING BOARD MAY ACCEPT THE INVESTIGATION
19 RESULTS OF A LEAD INVESTIGATIVE STATE FOR THE PURPOSE OF
20 SUBSECTION (6) OF THIS SECTION IF THE LEAD INVESTIGATIVE STATE HAS
21 SUFFICIENT STAFFING, EXPERTISE, AND MINIMUM STANDARDS; OR

22 (b) IF COLORADO IS A LEAD INVESTIGATIVE STATE, THE BANKING
23 BOARD MAY INVESTIGATE THE APPLICANT PURSUANT TO SUBSECTION (6)
24 OF THIS SECTION AND THE TIME FRAMES ESTABLISHED BY AGREEMENT
25 THROUGH THE MULTISTATE LICENSING PROCESS.

26 (8) THE BANKING BOARD SHALL ISSUE A FORMAL WRITTEN NOTICE
27 OF THE DENIAL OF AN APPLICATION TO ACQUIRE CONTROL WITHIN THIRTY

1 DAYS AFTER THE DECISION TO DENY THE APPLICATION. THE BOARD SHALL
2 SET FORTH IN THE NOTICE OF DENIAL THE SPECIFIC REASONS FOR THE
3 DENIAL OF THE APPLICATION. AN APPLICANT WHOSE APPLICATION IS
4 DENIED BY THE BOARD UNDER THIS SUBSECTION (8) MAY APPEAL WITHIN
5 THIRTY DAYS AFTER RECEIPT OF THE WRITTEN NOTICE OF THE DENIAL
6 PURSUANT TO STATE ADMINISTRATIVE LAW PROCEDURES.

7 (9) THE REQUIREMENTS OF SUBSECTIONS (1) AND (2) OF THIS
8 SECTION DO NOT APPLY TO ANY OF THE FOLLOWING:

9 (a) A PERSON THAT ACTS AS A PROXY FOR THE SOLE PURPOSE OF
10 VOTING AT A DESIGNATED MEETING OF THE SHAREHOLDERS OR HOLDERS
11 OF VOTING SHARES OR VOTING INTERESTS OF A LICENSEE OR A PERSON IN
12 CONTROL OF A LICENSEE;

13 (b) A PERSON THAT ACQUIRES CONTROL OF A LICENSEE BY DEVISE
14 OR DESCENT;

15 (c) A PERSON THAT ACQUIRES CONTROL OF A LICENSEE AS A
16 PERSONAL REPRESENTATIVE, CUSTODIAN, GUARDIAN, CONSERVATOR, OR
17 TRUSTEE OR AS AN OFFICER APPOINTED BY A COURT OF COMPETENT
18 JURISDICTION OR BY OPERATION OF LAW;

19 (d) A PERSON THAT IS EXEMPT UNDER SECTION 11-110-301 (1)(g);

20 (e) A PERSON THAT THE BANKING BOARD DETERMINES IS NOT
21 SUBJECT TO SUBSECTION (1) OF THIS SECTION BASED ON THE PUBLIC
22 INTEREST;

23 (f) A PUBLIC OFFERING OF SECURITIES OF A LICENSEE OR A PERSON
24 IN CONTROL OF A LICENSEE; OR

25 (g) AN INTERNAL REORGANIZATION OF A PERSON IN CONTROL OF
26 A LICENSEE WHERE THE ULTIMATE PERSON IN CONTROL OF THE LICENSEE
27 REMAINS THE SAME.

1 (10) PERSONS DESCRIBED IN SUBSECTIONS (9)(b), (9)(c), (9)(d),
2 (9)(f), AND (9)(g) OF THIS SECTION SHALL, IN COOPERATION WITH THE
3 LICENSEE, NOTIFY THE BANKING BOARD WITHIN FIFTEEN DAYS AFTER THE
4 ACQUISITION OF CONTROL.

5 **(11) Streamlined acquisition of control.** (a) THE REQUIREMENTS
6 OF SUBSECTIONS (1) AND (2) OF THIS SECTION DO NOT APPLY TO A PERSON
7 THAT HAS COMPLIED WITH AND RECEIVED APPROVAL TO ENGAGE IN
8 MONEY TRANSMISSION UNDER THIS ARTICLE 110 OR WAS IDENTIFIED AS A
9 PERSON IN CONTROL IN A PRIOR APPLICATION FILED WITH AND APPROVED
10 BY THE BANKING BOARD OR BY AN MSB ACCREDITED STATE PURSUANT TO
11 A MULTISTATE LICENSING PROCESS, SO LONG AS:

12 (I) THE PERSON HAS NOT HAD A LICENSE REVOKED OR SUSPENDED
13 OR CONTROLLED A LICENSEE THAT HAS HAD A LICENSE REVOKED OR
14 SUSPENDED WHILE THE PERSON WAS IN CONTROL OF THE LICENSEE IN THE
15 PREVIOUS FIVE YEARS;

16 (II) IF THE PERSON IS A LICENSEE, THE PERSON IS WELL MANAGED
17 AND HAS RECEIVED AT LEAST A SATISFACTORY RATING FOR COMPLIANCE
18 AT THE PERSON'S MOST RECENT EXAMINATION BY AN MSB ACCREDITED
19 STATE IF SUCH RATING WAS GIVEN;

20 (III) THE LICENSEE TO BE ACQUIRED IS PROJECTED TO MEET THE
21 REQUIREMENTS OF SECTIONS 11-110-1001, 11-110-1002, AND
22 11-110-1003 AFTER THE ACQUISITION OF CONTROL IS COMPLETED, AND,
23 IF THE PERSON ACQUIRING CONTROL IS A LICENSEE, THAT LICENSEE IS ALSO
24 PROJECTED TO MEET THE REQUIREMENTS OF SECTIONS 11-110-1001,
25 11-110-1002, AND 11-110-1003 AFTER THE ACQUISITION OF CONTROL IS
26 COMPLETED;

27 (IV) THE LICENSEE TO BE ACQUIRED WILL NOT IMPLEMENT ANY

1 MATERIAL CHANGES TO ITS BUSINESS PLAN AS A RESULT OF THE
2 ACQUISITION OF CONTROL, AND, IF THE PERSON ACQUIRING CONTROL IS A
3 LICENSEE, THAT LICENSEE ALSO WILL NOT IMPLEMENT ANY MATERIAL
4 CHANGES TO ITS BUSINESS PLAN AS A RESULT OF THE ACQUISITION OF
5 CONTROL; AND

6 (V) THE PERSON PROVIDES NOTICE OF THE ACQUISITION IN
7 COOPERATION WITH THE LICENSEE AND ATTESTS TO THE CONDITIONS
8 SPECIFIED IN SUBSECTIONS (11)(a)(I) TO (11)(a)(IV) OF THIS SECTION IN
9 A FORM AND IN A MEDIUM PRESCRIBED BY THE BOARD BY RULE.

10 (b) IF THE NOTICE IS NOT DISAPPROVED WITHIN THIRTY DAYS
11 AFTER THE DATE ON WHICH THE NOTICE WAS DETERMINED TO BE
12 COMPLETE, THE NOTICE IS DEEMED APPROVED.

13 (12) BEFORE FILING AN APPLICATION FOR APPROVAL TO ACQUIRE
14 CONTROL OF A LICENSEE, A PERSON MAY REQUEST IN WRITING A
15 DETERMINATION FROM THE BANKING BOARD AS TO WHETHER THE PERSON
16 WOULD BE CONSIDERED A PERSON IN CONTROL OF A LICENSEE UPON
17 CONSUMMATION OF A PROPOSED TRANSACTION. IF THE BOARD
18 DETERMINES THAT THE PERSON WOULD NOT BE A PERSON IN CONTROL OF
19 A LICENSEE, THE PROPOSED PERSON AND TRANSACTION IS NOT SUBJECT TO
20 THE REQUIREMENTS OF SUBSECTIONS (1) AND (2) OF THIS SECTION.

21 (13) IF A MULTISTATE LICENSING PROCESS INCLUDES A
22 DETERMINATION MADE PURSUANT TO SUBSECTION (12) OF THIS SECTION
23 AND AN APPLICANT USES OR IS OTHERWISE SUBJECT TO THE MULTISTATE
24 LICENSING PROCESS:

25 (a) THE BANKING BOARD IS AUTHORIZED AND ENCOURAGED TO
26 ACCEPT THE CONTROL DETERMINATION OF A LEAD INVESTIGATIVE STATE
27 WITH SUFFICIENT STAFFING, EXPERTISE, AND MINIMUM STANDARDS FOR

1 THE PURPOSE OF THIS SUBSECTION (13); OR

2 (b) IF THE STATE IS A LEAD INVESTIGATIVE STATE, THE BANKING
3 BOARD IS AUTHORIZED AND ENCOURAGED TO INVESTIGATE THE APPLICANT
4 PURSUANT TO THIS SUBSECTION (13) AND THE TIME FRAMES ESTABLISHED
5 BY AGREEMENT THROUGH THE MULTISTATE LICENSING PROCESS.

6 **11-110-602. Notice and information requirements for a change**
7 **of key individuals.** A LICENSEE ADDING OR REPLACING A KEY INDIVIDUAL
8 SHALL PROVIDE NOTICE TO THE BANKING BOARD IN A MANNER PRESCRIBED
9 BY THE BOARD BY RULE WITHIN FIFTEEN DAYS AFTER THE EFFECTIVE DATE
10 OF THE KEY INDIVIDUAL'S APPOINTMENT.

11 PART 7

12 REPORTING AND RECORDS

13 **11-110-701. Report of condition.** (1) EACH LICENSEE SHALL
14 SUBMIT A REPORT OF CONDITION TO THE BANKING BOARD WITHIN
15 FORTY-FIVE DAYS AFTER THE END OF A CALENDAR QUARTER OR WITHIN
16 ANY EXTENDED TIME AS THE BOARD BY RULE MAY PRESCRIBE.

17 (2) THE REPORT OF CONDITION MUST INCLUDE:

18 (a) FINANCIAL INFORMATION AT THE LICENSEE LEVEL;

19 (b) NATIONWIDE AND STATE-SPECIFIC MONEY TRANSMISSION
20 TRANSACTION INFORMATION IN EVERY JURISDICTION IN THE UNITED
21 STATES WHERE THE LICENSEE IS LICENSED TO ENGAGE IN MONEY
22 TRANSMISSION;

23 (c) A PERMISSIBLE INVESTMENTS REPORT;

24 (d) TRANSACTION DESTINATION COUNTRY REPORTING FOR MONEY
25 RECEIVED FOR TRANSMISSION, IF APPLICABLE; AND

26 (e) ANY OTHER INFORMATION THE BANKING BOARD REASONABLY
27 REQUIRES WITH RESPECT TO THE LICENSEE.

1 (3) THE INFORMATION REQUIRED BY SUBSECTION (2)(d) OF THIS
2 SECTION SHALL ONLY BE INCLUDED IN A REPORT OF CONDITION SUBMITTED
3 WITHIN FORTY-FIVE DAYS AFTER THE END OF THE FOURTH CALENDAR
4 QUARTER.

5 **11-110-702. Audited financials.** (1) EACH LICENSEE SHALL,
6 WITHIN NINETY DAYS AFTER THE END OF EACH FISCAL YEAR, OR WITHIN
7 ANY EXTENDED TIME AS THE BANKING BOARD BY RULE MAY PRESCRIBE,
8 FILE WITH THE BOARD:

9 (a) AN AUDITED FINANCIAL STATEMENT OF THE LICENSEE FOR THE
10 FISCAL YEAR PREPARED IN ACCORDANCE WITH UNITED STATES
11 GENERALLY ACCEPTED ACCOUNTING PRINCIPLES; AND

12 (b) ANY OTHER INFORMATION THAT THE BOARD MAY REASONABLY
13 REQUIRE.

14 (2) THE AUDITED FINANCIAL STATEMENTS SHALL BE PREPARED BY
15 AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT OR INDEPENDENT
16 PUBLIC ACCOUNTANT WHO IS SATISFACTORY TO THE BANKING BOARD.

17 (3) THE AUDITED FINANCIAL STATEMENTS MUST INCLUDE OR BE
18 ACCOMPANIED BY A CERTIFICATE OF OPINION OF THE INDEPENDENT
19 CERTIFIED PUBLIC ACCOUNTANT OR INDEPENDENT PUBLIC ACCOUNTANT
20 THAT IS SATISFACTORY IN FORM AND CONTENT TO THE BANKING BOARD.
21 IF THE CERTIFICATE OR OPINION IS QUALIFIED, THE BOARD MAY ORDER THE
22 LICENSEE TO TAKE ANY ACTION THAT THE BOARD MAY FIND NECESSARY
23 TO ENABLE THE INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT OR
24 INDEPENDENT PUBLIC ACCOUNTANT TO REMOVE THE QUALIFICATION.

25 **11-110-703. Authorized delegate reporting.** (1) EACH LICENSEE
26 SHALL SUBMIT A REPORT OF AUTHORIZED DELEGATES TO THE BANKING
27 BOARD WITHIN FORTY-FIVE DAYS AFTER THE END OF A CALENDAR

1 QUARTER. THE BOARD IS AUTHORIZED AND ENCOURAGED TO UTILIZE
2 NMLS FOR THE SUBMISSION OF THE REPORT REQUIRED BY THIS SECTION
3 IF THE FUNCTIONALITY IS CONSISTENT WITH THE REQUIREMENTS OF THIS
4 SECTION.

5 (2) THE AUTHORIZED DELEGATE REPORT MUST INCLUDE, AT A
6 MINIMUM, THE FOLLOWING INFORMATION FOR EACH AUTHORIZED
7 DELEGATE:

- 8 (a) COMPANY LEGAL NAME;
- 9 (b) TAXPAYER EMPLOYER IDENTIFICATION NUMBER;
- 10 (c) PRINCIPAL PROVIDER IDENTIFIER;
- 11 (d) PHYSICAL ADDRESS;
- 12 (e) MAILING ADDRESS;
- 13 (f) BUSINESS CONDUCTED IN OTHER STATES, IF ANY;
- 14 (g) FICTITIOUS OR TRADE NAMES, IF ANY;
- 15 (h) CONTACT PERSON NAME, PHONE NUMBER, AND EMAIL;
- 16 (i) START DATE AS LICENSEE'S AUTHORIZED DELEGATE;
- 17 (j) END DATE ACTING AS LICENSEE'S AUTHORIZED DELEGATE, IF
18 APPLICABLE; AND
- 19 (k) OTHER INFORMATION THE BANKING BOARD REASONABLY
20 REQUIRES WITH RESPECT TO THE AUTHORIZED DELEGATE.

21 **11-110-704. Reports of certain events.** (1) A LICENSEE SHALL
22 FILE A REPORT WITH THE BANKING BOARD WITHIN ONE BUSINESS DAY
23 AFTER THE LICENSEE HAS REASON TO KNOW OF THE OCCURRENCE OF ANY
24 OF THE FOLLOWING EVENTS:

- 25 (a) THE FILING OF A PETITION BY OR AGAINST THE LICENSEE UNDER
26 THE UNITED STATES BANKRUPTCY CODE, 11 U.S.C. SECS. 101 TO 110, AS
27 AMENDED, FOR BANKRUPTCY OR REORGANIZATION;

1 (b) THE FILING OF A PETITION BY OR AGAINST THE LICENSEE FOR
2 RECEIVERSHIP, THE COMMENCEMENT OF ANY OTHER JUDICIAL OR
3 ADMINISTRATIVE PROCEEDING FOR THE LICENSEE'S DISSOLUTION OR
4 REORGANIZATION, OR THE MAKING OF A GENERAL ASSIGNMENT FOR THE
5 BENEFIT OF THE LICENSEE'S CREDITORS; OR

6 (c) THE COMMENCEMENT OF A PROCEEDING TO REVOKE OR
7 SUSPEND THE LICENSEE'S LICENSE IN A STATE OR COUNTRY IN WHICH THE
8 LICENSEE ENGAGES IN BUSINESS OR IS LICENSED.

9 (2) A LICENSEE SHALL FILE A REPORT WITH THE BANKING BOARD
10 WITHIN THREE BUSINESS DAYS AFTER THE LICENSEE HAS REASON TO KNOW
11 OF THE OCCURRENCE OF ANY OF THE FOLLOWING EVENTS:

12 (a) A CHARGE OR CONVICTION OF THE LICENSEE OR OF A KEY
13 INDIVIDUAL OR PERSON IN CONTROL OF THE LICENSEE FOR A FELONY; OR

14 (b) A CHARGE OR CONVICTION OF AN AUTHORIZED DELEGATE FOR
15 A FELONY.

16 **11-110-705. Bank secrecy act reports.** A LICENSEE AND AN
17 AUTHORIZED DELEGATE SHALL FILE ALL REPORTS REQUIRED BY FEDERAL
18 CURRENCY REPORTING, RECORD-KEEPING, AND SUSPICIOUS ACTIVITY
19 REPORTING REQUIREMENTS AS SET FORTH IN THE BANK SECRECY ACT AND
20 OTHER FEDERAL AND STATE LAWS PERTAINING TO MONEY LAUNDERING.
21 THE TIMELY FILING OF A COMPLETE AND ACCURATE REPORT REQUIRED
22 UNDER THIS SECTION WITH THE APPROPRIATE FEDERAL AGENCY IS DEEMED
23 COMPLIANT WITH THE REQUIREMENTS OF THIS SECTION.

24 **11-110-706. Records - rules.** (1) A LICENSEE SHALL MAINTAIN
25 THE FOLLOWING RECORDS FOR DETERMINING THE LICENSEE'S COMPLIANCE
26 WITH THIS ARTICLE 110 FOR AT LEAST THREE YEARS AFTER THE CREATION
27 OF THE RECORD:

1 (a) A RECORD OF EACH OUTSTANDING MONEY TRANSMISSION
2 OBLIGATION SOLD;

3 (b) A GENERAL LEDGER POSTED AT LEAST MONTHLY CONTAINING
4 ALL ASSET, LIABILITY, CAPITAL, INCOME, AND EXPENSE ACCOUNTS;

5 (c) BANK STATEMENTS AND BANK RECONCILIATION RECORDS;

6 (d) RECORDS OF OUTSTANDING MONEY TRANSMISSION
7 OBLIGATIONS;

8 (e) RECORDS OF EACH OUTSTANDING MONEY TRANSMISSION
9 OBLIGATION PAID WITHIN THE THREE-YEAR PERIOD;

10 (f) A LIST OF THE LAST-KNOWN NAMES AND ADDRESSES OF ALL OF
11 THE LICENSEE'S AUTHORIZED DELEGATES; AND

12 (g) ANY OTHER RECORDS THE BANKING BOARD BY RULE
13 REASONABLY REQUIRES.

14 (2) THE ITEMS SPECIFIED IN SUBSECTION (1) OF THIS SECTION MAY
15 BE MAINTAINED IN ANY FORM OF RECORD.

16 (3) RECORDS SPECIFIED IN SUBSECTION (1) OF THIS SECTION MAY
17 BE MAINTAINED OUTSIDE THIS STATE IF THEY ARE MADE ACCESSIBLE TO
18 THE BANKING BOARD WITH TEN BUSINESS DAYS' NOTICE THAT IS SENT IN
19 A RECORD.

20 (4) ALL RECORDS MAINTAINED BY THE LICENSEE AS REQUIRED IN
21 SUBSECTIONS (1) TO (3) OF THIS SECTION ARE OPEN TO INSPECTION BY THE
22 BANKING BOARD PURSUANT TO SECTION 11-110-403 (1).

23 PART 8

24 AUTHORIZED DELEGATES

25 **11-110-801. Relationship between licensee and authorized**
26 **delegate - written policies and procedures required - background**
27 **investigation - definition.** (1) AS USED IN THIS SECTION, "REMIT" MEANS

1 TO MAKE DIRECT PAYMENTS OF MONEY TO A LICENSEE OR THE LICENSEE'S
2 REPRESENTATIVE AUTHORIZED TO RECEIVE MONEY OR TO DEPOSIT MONEY
3 IN A BANK IN AN ACCOUNT SPECIFIED BY THE LICENSEE.

4 (2) BEFORE A LICENSEE IS AUTHORIZED TO CONDUCT BUSINESS
5 THROUGH AN AUTHORIZED DELEGATE OR ALLOWS A PERSON TO ACT AS
6 THE LICENSEE'S AUTHORIZED DELEGATE, THE LICENSEE SHALL:

7 (a) ADOPT, AND UPDATE AS NECESSARY, WRITTEN POLICIES AND
8 PROCEDURES REASONABLY DESIGNED TO ENSURE THAT THE LICENSEE'S
9 AUTHORIZED DELEGATES COMPLY WITH APPLICABLE STATE AND FEDERAL
10 LAW;

11 (b) ENTER INTO A WRITTEN CONTRACT THAT COMPLIES WITH
12 SUBSECTION (4) OF THIS SECTION; AND

13 (c) CONDUCT A REASONABLE RISK-BASED BACKGROUND
14 INVESTIGATION SUFFICIENT FOR THE LICENSEE TO DETERMINE WHETHER
15 THE AUTHORIZED DELEGATE HAS COMPLIED AND WILL LIKELY COMPLY
16 WITH APPLICABLE STATE AND FEDERAL LAW.

17 (3) AN AUTHORIZED DELEGATE MUST OPERATE IN FULL
18 COMPLIANCE WITH THIS ARTICLE 110.

19 (4) THE WRITTEN CONTRACT REQUIRED BY SUBSECTION (2)(b) OF
20 THIS SECTION MUST:

21 (a) BE SIGNED BY THE LICENSEE AND THE AUTHORIZED DELEGATE
22 AND, AT A MINIMUM, MUST APPOINT THE PERSON SIGNING THE CONTRACT
23 AS THE LICENSEE'S AUTHORIZED DELEGATE WITH THE AUTHORITY TO
24 CONDUCT MONEY TRANSMISSION ON BEHALF OF THE LICENSEE;

25 (b) SET FORTH THE NATURE AND SCOPE OF THE RELATIONSHIP
26 BETWEEN THE LICENSEE AND THE AUTHORIZED DELEGATE AND THE
27 RESPECTIVE RIGHTS AND RESPONSIBILITIES OF THE PARTIES;

1 (c) REQUIRE THE AUTHORIZED DELEGATE TO AGREE TO FULLY
2 COMPLY WITH ALL APPLICABLE STATE AND FEDERAL LAWS, RULES, AND
3 REGULATIONS PERTAINING TO MONEY TRANSMISSION, INCLUDING THIS
4 ARTICLE 110 AND RULES IMPLEMENTING THIS ARTICLE 110 AND RELEVANT
5 PROVISIONS OF THE BANK SECRECY ACT AND THE FEDERAL "USA
6 PATRIOT Act", PUB.L. 107-56;

7 (d) REQUIRE THE AUTHORIZED DELEGATE TO REMIT AND HANDLE
8 MONEY AND MONETARY VALUE IN ACCORDANCE WITH THE TERMS OF THE
9 CONTRACT BETWEEN THE LICENSEE AND THE AUTHORIZED DELEGATE;

10 (e) IMPOSE A TRUST ON MONEY AND MONETARY VALUE NET OF
11 FEES RECEIVED FOR MONEY TRANSMISSION FOR THE BENEFIT OF THE
12 LICENSEE;

13 (f) REQUIRE THE AUTHORIZED DELEGATE TO PREPARE AND
14 MAINTAIN RECORDS AS REQUIRED BY THIS ARTICLE 110 OR RULES
15 IMPLEMENTING THIS ARTICLE 110 OR AS REASONABLY REQUESTED BY THE
16 BANKING BOARD;

17 (g) ACKNOWLEDGE THAT THE AUTHORIZED DELEGATE CONSENTS
18 TO EXAMINATION OR INVESTIGATION BY THE BANKING BOARD;

19 (h) STATE THAT THE LICENSEE IS SUBJECT TO REGULATION BY THE
20 BANKING BOARD AND THAT, AS PART OF THAT REGULATION, THE BOARD
21 MAY SUSPEND OR REVOKE AN AUTHORIZED DELEGATE DESIGNATION OR
22 REQUIRE THE LICENSEE TO TERMINATE AN AUTHORIZED DELEGATE
23 DESIGNATION; AND

24 (i) ACKNOWLEDGE RECEIPT OF THE WRITTEN POLICIES AND
25 PROCEDURES REQUIRED UNDER SUBSECTION (2)(a) OF THIS SECTION.

26 (5) IF THE LICENSEE'S LICENSE IS SUSPENDED, REVOKED,
27 SURRENDERED, OR EXPIRED, THE LICENSEE MUST, WITHIN FIVE BUSINESS

1 DAYS, PROVIDE DOCUMENTATION TO THE BANKING BOARD THAT THE
2 LICENSEE HAS NOTIFIED ALL APPLICABLE AUTHORIZED DELEGATES OF THE
3 LICENSEE WHOSE NAMES ARE IN A RECORD FILED WITH THE BOARD OF THE
4 SUSPENSION, REVOCATION, SURRENDER, OR EXPIRATION OF A LICENSE.
5 UPON SUSPENSION, REVOCATION, SURRENDER, OR EXPIRATION OF A
6 LICENSE, APPLICABLE AUTHORIZED DELEGATES SHALL IMMEDIATELY
7 CEASE TO PROVIDE MONEY TRANSMISSION AS AN AUTHORIZED DELEGATE
8 OF THE LICENSEE.

9 (6) AN AUTHORIZED DELEGATE OF A LICENSEE HOLDS IN TRUST FOR
10 THE BENEFIT OF THE LICENSEE ALL MONEY NET OF FEES RECEIVED FROM
11 MONEY TRANSMISSION. IF AN AUTHORIZED DELEGATE COMMINGLES ANY
12 MONEY RECEIVED FROM MONEY TRANSMISSION WITH ANY OTHER MONEY
13 OR PROPERTY OWNED OR CONTROLLED BY THE AUTHORIZED DELEGATE,
14 ALL COMMINGLED MONEY AND OTHER PROPERTY SHALL BE CONSIDERED
15 HELD IN TRUST IN FAVOR OF THE LICENSEE IN AN AMOUNT EQUAL TO THE
16 AMOUNT OF MONEY NET OF FEES RECEIVED FROM MONEY TRANSMISSION.

17 (7) AN AUTHORIZED DELEGATE SHALL NOT USE A SUBDELEGATE TO
18 CONDUCT MONEY TRANSMISSION ON BEHALF OF A LICENSEE.

19 **11-110-802. Unauthorized activities - joint and several**
20 **liability.** A PERSON SHALL NOT ENGAGE IN THE BUSINESS OF MONEY
21 TRANSMISSION ON BEHALF OF A PERSON NOT LICENSED UNDER THIS
22 ARTICLE 110 OR NOT EXEMPT PURSUANT TO PART 3 OF THIS ARTICLE 110.
23 A PERSON THAT ENGAGES IN SUCH ACTIVITY PROVIDES MONEY
24 TRANSMISSION TO THE SAME EXTENT AS IF THE PERSON WERE A LICENSEE
25 AND SHALL BE JOINTLY AND SEVERALLY LIABLE WITH THE UNLICENSED OR
26 NONEXEMPT PERSON.

27 PART 9

1 TIMELY TRANSMISSION, REFUNDS, AND DISCLOSURES

2 **11-110-901. Timely transmission.** (1) EVERY LICENSEE SHALL
3 FORWARD ALL MONEY RECEIVED FOR TRANSMISSION IN ACCORDANCE
4 WITH THE TERMS OF THE AGREEMENT BETWEEN THE LICENSEE AND THE
5 SENDER UNLESS THE LICENSEE HAS A REASONABLE BELIEF OR A
6 REASONABLE BASIS TO BELIEVE THAT THE SENDER MAY BE A VICTIM OF
7 FRAUD OR THAT A CRIME OR VIOLATION OF A LAW, RULE, OR REGULATION
8 HAS OCCURRED, IS OCCURRING, OR MAY OCCUR.

9 (2) IF A LICENSEE FAILS TO FORWARD MONEY RECEIVED FOR
10 TRANSMISSION IN ACCORDANCE WITH THIS SECTION, THE LICENSEE MUST
11 RESPOND TO INQUIRIES BY THE SENDER WITH THE REASON FOR THE
12 FAILURE UNLESS PROVIDING A RESPONSE WOULD VIOLATE A STATE OR
13 FEDERAL LAW, RULE, OR REGULATION.

14 **11-110-902. Refunds.** (1) THIS SECTION DOES NOT APPLY TO:

15 (a) MONEY RECEIVED FOR TRANSMISSION SUBJECT TO THE
16 FEDERAL REMITTANCE RULE, 12 CFR 1005, SUBPART B; OR

17 (b) MONEY RECEIVED FOR TRANSMISSION PURSUANT TO A
18 WRITTEN AGREEMENT BETWEEN THE LICENSEE AND PAYEE TO PROCESS
19 PAYMENTS FOR GOODS OR SERVICES PROVIDED BY THE PAYEE.

20 (2) EVERY LICENSEE SHALL REFUND TO THE SENDER WITHIN TEN
21 DAYS AFTER RECEIPT OF THE SENDER'S WRITTEN REQUEST FOR A REFUND
22 ANY AND ALL MONEY RECEIVED FOR TRANSMISSION UNLESS ANY OF THE
23 FOLLOWING OCCURS:

24 (a) THE MONEY HAS BEEN FORWARDED WITHIN TEN DAYS AFTER
25 THE DATE ON WHICH THE MONEY WAS RECEIVED FOR TRANSMISSION;

26 (b) INSTRUCTIONS HAVE BEEN GIVEN COMMITTING AN EQUIVALENT
27 AMOUNT OF MONEY TO THE PERSON DESIGNATED BY THE SENDER WITHIN

1 TEN DAYS AFTER THE DATE ON WHICH THE MONEY WAS RECEIVED FOR
2 TRANSMISSION;

3 (c) THE AGREEMENT BETWEEN THE LICENSEE AND THE SENDER
4 INSTRUCTS THE LICENSEE TO FORWARD THE MONEY AT A TIME THAT IS
5 BEYOND TEN DAYS AFTER THE DATE ON WHICH THE MONEY WAS RECEIVED
6 FOR TRANSMISSION. IF MONEY HAS NOT YET BEEN FORWARDED IN
7 ACCORDANCE WITH THE TERMS OF THE AGREEMENT BETWEEN THE
8 LICENSEE AND THE SENDER, THE LICENSEE SHALL ISSUE A REFUND IN
9 ACCORDANCE WITH THE OTHER PROVISIONS OF THIS SECTION.

10 (d) THE REFUND IS REQUESTED FOR A TRANSACTION THAT THE
11 LICENSEE HAS NOT COMPLETED BASED ON A REASONABLE BELIEF OR A
12 REASONABLE BASIS TO BELIEVE THAT A CRIME OR VIOLATION OF LAW,
13 RULE, OR REGULATION HAS OCCURRED, IS OCCURRING, OR MAY OCCUR; OR

14 (e) THE REFUND REQUEST DOES NOT ENABLE THE LICENSEE TO:

15 (I) IDENTIFY THE SENDER'S NAME AND ADDRESS OR TELEPHONE
16 NUMBER; OR

17 (II) IDENTIFY THE PARTICULAR TRANSACTION TO BE REFUNDED IN
18 THE EVENT THE SENDER HAS MULTIPLE TRANSACTIONS OUTSTANDING.

19 **11-110-903. Receipts - definition.** (1) THIS SECTION DOES NOT
20 APPLY TO:

21 (a) MONEY RECEIVED FOR TRANSMISSION SUBJECT TO THE
22 FEDERAL REMITTANCE RULE, 12 CFR 1005, SUBPART B;

23 (b) MONEY RECEIVED FOR TRANSMISSION THAT IS NOT PRIMARILY
24 FOR PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES;

25 (c) MONEY RECEIVED FOR TRANSMISSION PURSUANT TO A WRITTEN
26 AGREEMENT BETWEEN THE LICENSEE AND PAYEE TO PROCESS PAYMENTS
27 FOR GOODS OR SERVICES PROVIDED BY THE PAYEE; OR

1 (d) PAYROLL PROCESSING SERVICES.

2 (2) AS USED IN THIS SECTION, "RECEIPT" MEANS A PAPER RECEIPT,
3 ELECTRONIC RECORD, OR OTHER WRITTEN CONFIRMATION. FOR A
4 TRANSACTION CONDUCTED IN PERSON, THE RECEIPT MAY BE PROVIDED
5 ELECTRONICALLY IF THE SENDER REQUESTS OR AGREES TO RECEIVE AN
6 ELECTRONIC RECEIPT. FOR A TRANSACTION CONDUCTED ELECTRONICALLY
7 OR BY PHONE, A RECEIPT MAY BE PROVIDED ELECTRONICALLY. ALL
8 ELECTRONIC RECEIPTS SHALL BE PROVIDED IN A RETAINABLE FORM.

9 (3) (a) EVERY LICENSEE OR EVERY LICENSEE'S AUTHORIZED
10 DELEGATE SHALL PROVIDE THE SENDER A RECEIPT FOR MONEY RECEIVED
11 FOR TRANSMISSION.

12 (b) THE RECEIPT MUST CONTAIN THE FOLLOWING INFORMATION, AS
13 APPLICABLE:

14 (I) THE NAME OF THE SENDER;

15 (II) THE NAME OF THE DESIGNATED RECIPIENT;

16 (III) THE DATE OF THE TRANSACTION;

17 (IV) THE UNIQUE TRANSACTION OR IDENTIFICATION NUMBER;

18 (V) THE NAME OF THE LICENSEE, THE NMLS UNIQUE IDENTIFIER,
19 THE LICENSEE'S BUSINESS ADDRESS, AND THE LICENSEE'S CUSTOMER
20 SERVICE TELEPHONE NUMBER;

21 (VI) THE AMOUNT OF THE TRANSACTION IN UNITED STATES
22 DOLLARS;

23 (VII) THE FEE CHARGED BY THE LICENSEE TO THE SENDER FOR THE
24 TRANSACTION, IF ANY; AND

25 (VIII) TAXES COLLECTED BY THE LICENSEE FROM THE SENDER FOR
26 THE TRANSACTION, IF ANY.

27 (c) THE RECEIPT REQUIRED BY THIS SECTION MUST BE IN ENGLISH

1 AND IN THE LANGUAGE PRINCIPALLY USED BY THE LICENSEE OR
2 AUTHORIZED DELEGATE, IF OTHER THAN ENGLISH, TO ADVERTISE, SOLICIT,
3 OR NEGOTIATE, EITHER ORALLY OR IN WRITING, FOR A TRANSACTION
4 CONDUCTED IN PERSON, ELECTRONICALLY, OR BY PHONE.

5 **11-110-904. Notice.** EVERY LICENSEE OR AUTHORIZED DELEGATE
6 SHALL INCLUDE ON A RECEIPT DESCRIBED IN SECTION 11-110-903 OR
7 DISCLOSE ON THE LICENSEE'S WEBSITE OR MOBILE APPLICATION THE NAME
8 AND PHONE NUMBER OF THE DIVISION AND A STATEMENT THAT THE
9 LICENSEE'S CUSTOMERS CAN CONTACT THE DIVISION WITH QUESTIONS OR
10 COMPLAINTS ABOUT THE LICENSEE'S MONEY TRANSMISSION SERVICES.

11 **11-110-905. Disclosures for payroll processing services.** (1) A
12 LICENSEE THAT PROVIDES PAYROLL PROCESSING SERVICES SHALL:

13 (a) ISSUE REPORTS TO CLIENTS DETAILING CLIENT PAYROLL
14 OBLIGATIONS IN ADVANCE OF THE PAYROLL MONEY BEING DEDUCTED
15 FROM AN ACCOUNT; AND

16 (b) MAKE AVAILABLE WORKER PAY STUBS OR AN EQUIVALENT
17 STATEMENT TO WORKERS.

18 (2) SUBSECTION (1) OF THIS SECTION DOES NOT APPLY TO A
19 LICENSEE PROVIDING PAYROLL PROCESSING SERVICES WHERE THE
20 LICENSEE'S CLIENT DESIGNATES THE INTENDED RECIPIENTS TO THE
21 LICENSEE AND IS RESPONSIBLE FOR PROVIDING THE DISCLOSURES
22 REQUIRED BY SUBSECTION (1)(b) OF THIS SECTION.

23 **PART 10**

24 **PRUDENTIAL STANDARDS**

25 **11-110-1001. Net worth.** (1) A LICENSEE LICENSED PURSUANT TO
26 THIS ARTICLE 110 SHALL MAINTAIN AT ALL TIMES A TANGIBLE NET WORTH
27 OF THE GREATER OF ONE HUNDRED THOUSAND DOLLARS OR THREE

1 PERCENT OF TOTAL ASSETS FOR THE FIRST ONE HUNDRED MILLION
2 DOLLARS, TWO PERCENT OF ADDITIONAL ASSETS FOR ONE HUNDRED
3 MILLION DOLLARS TO ONE BILLION DOLLARS, AND ONE-HALF OF ONE
4 PERCENT OF ADDITIONAL ASSETS FOR OVER ONE BILLION DOLLARS.

5 (2) TANGIBLE NET WORTH REQUIRED BY SUBSECTION (1) OF THIS
6 SECTION MUST BE DEMONSTRATED AT INITIAL APPLICATION BY THE
7 APPLICANT'S MOST RECENT AUDITED OR UNAUDITED FINANCIAL
8 STATEMENTS PURSUANT TO SECTION 11-110-503 (2)(f).

9 (3) NOTWITHSTANDING SUBSECTIONS (1) AND (2) OF THIS SECTION,
10 THE BANKING BOARD MAY, FOR GOOD CAUSE SHOWN, EXEMPT, IN PART OR
11 IN WHOLE, AN APPLICANT OR LICENSEE FROM THE REQUIREMENTS SET
12 FORTH IN THIS SECTION.

13 **11-110-1002. Surety bond.** (1) AN APPLICANT FOR A MONEY
14 TRANSMISSION LICENSE SHALL PROVIDE, AND A LICENSEE AT ALL TIMES
15 SHALL MAINTAIN, SECURITY CONSISTING OF A SURETY BOND IN A FORM
16 SATISFACTORY TO THE BANKING BOARD OR, WITH THE BOARD'S APPROVAL,
17 A DEPOSIT INSTEAD OF A BOND IN ACCORDANCE WITH THIS SECTION.

18 (2) THE AMOUNT OF THE REQUIRED SECURITY IS THE GREATER OF
19 TWO HUNDRED FIFTY THOUSAND DOLLARS OR AN AMOUNT EQUAL TO ONE
20 HUNDRED PERCENT OF THE LICENSEE'S AVERAGE DAILY MONEY
21 TRANSMISSION LIABILITY IN THIS STATE CALCULATED FOR THE MOST
22 RECENTLY COMPLETED THREE-MONTH PERIOD, UP TO A MAXIMUM OF ONE
23 MILLION DOLLARS.

24 (3) A LICENSEE THAT MAINTAINS A BOND IN THE MAXIMUM
25 AMOUNT PROVIDED FOR IN SUBSECTION (2) OF THIS SECTION IS NOT
26 REQUIRED TO CALCULATE ITS AVERAGE DAILY MONEY TRANSMISSION
27 LIABILITY IN THIS STATE FOR PURPOSES OF THIS SECTION.

1 **11-110-1003. Maintenance of permissible investments -**

2 **statutory trust - rules.** (1) A LICENSEE SHALL MAINTAIN AT ALL TIMES
3 PERMISSIBLE INVESTMENTS THAT HAVE A MARKET VALUE COMPUTED IN
4 ACCORDANCE WITH UNITED STATES GENERALLY ACCEPTED ACCOUNTING
5 PRINCIPLES OF NOT LESS THAN THE AGGREGATE AMOUNT OF ALL OF THE
6 LICENSEE'S OUTSTANDING MONEY TRANSMISSION OBLIGATIONS.

7 (2) EXCEPT FOR PERMISSIBLE INVESTMENTS ENUMERATED IN
8 SECTION 11-110-1004 (1), THE BANKING BOARD, WITH RESPECT TO A
9 LICENSEE, MAY BY RULE OR ORDER LIMIT THE EXTENT TO WHICH A
10 SPECIFIC INVESTMENT MAINTAINED BY A LICENSEE WITHIN A CLASS OF
11 PERMISSIBLE INVESTMENTS MAY BE CONSIDERED A PERMISSIBLE
12 INVESTMENT IF THE SPECIFIC INVESTMENT REPRESENTS UNDUE RISK TO
13 CUSTOMERS NOT REFLECTED IN THE MARKET VALUE OF INVESTMENTS.

14 (3) PERMISSIBLE INVESTMENTS, EVEN IF COMMINGLED WITH OTHER
15 ASSETS OF A LICENSEE, ARE HELD IN TRUST FOR THE BENEFIT OF THE
16 PURCHASERS AND HOLDERS OF THE LICENSEE'S OUTSTANDING MONEY
17 TRANSMISSION OBLIGATIONS IN THE EVENT OF INSOLVENCY; THE FILING OF
18 A PETITION BY OR AGAINST THE LICENSEE UNDER THE UNITED STATES
19 BANKRUPTCY CODE, 11 U.S.C. SECS. 101 TO 110, AS AMENDED, FOR
20 BANKRUPTCY OR REORGANIZATION; THE FILING OF A PETITION BY OR
21 AGAINST THE LICENSEE FOR RECEIVERSHIP; THE COMMENCEMENT OF ANY
22 OTHER JUDICIAL OR ADMINISTRATIVE PROCEEDING FOR THE LICENSEE'S
23 DISSOLUTION OR REORGANIZATION; OR AN ACTION AGAINST THE LICENSEE
24 BY A CREDITOR THAT IS NOT A BENEFICIARY OF THE STATUTORY TRUST.
25 PERMISSIBLE INVESTMENTS IMPRESSED WITH A TRUST PURSUANT TO THIS
26 SECTION ARE NOT SUBJECT TO ATTACHMENT, LEVY OF EXECUTION, OR
27 SEQUESTRATION BY ORDER OF ANY COURT, EXCEPT FOR A BENEFICIARY OF

1 THE STATUTORY TRUST.

2 (4) UPON THE ESTABLISHMENT OF A STATUTORY TRUST IN
3 ACCORDANCE WITH SUBSECTION (3) OF THIS SECTION OR WHEN MONEY IS
4 DRAWN ON A LETTER OF CREDIT PURSUANT TO SECTION 11-110-1004
5 (1)(d), THE BANKING BOARD SHALL NOTIFY THE APPLICABLE REGULATOR
6 OF EACH STATE IN WHICH THE LICENSEE IS LICENSED TO ENGAGE IN MONEY
7 TRANSMISSION, IF ANY, OF THE ESTABLISHMENT OF THE TRUST OR THE
8 MONEY DRAWN ON THE LETTER OF CREDIT, AS APPLICABLE. NOTICE IS
9 DEEMED SATISFIED IF PERFORMED PURSUANT TO A MULTISTATE
10 AGREEMENT OR THROUGH NMLS. MONEY DRAWN ON A LETTER OF
11 CREDIT, AND ANY OTHER PERMISSIBLE INVESTMENTS HELD IN TRUST FOR
12 THE BENEFIT OF THE PURCHASERS AND HOLDERS OF THE LICENSEE'S
13 OUTSTANDING MONEY TRANSMISSION OBLIGATIONS, IS DEEMED HELD IN
14 TRUST FOR THE BENEFIT OF SUCH PURCHASERS AND HOLDERS ON A PRO
15 RATA AND EQUITABLE BASIS IN ACCORDANCE WITH STATUTES PURSUANT
16 TO WHICH PERMISSIBLE INVESTMENTS ARE REQUIRED TO BE HELD IN THIS
17 STATE, AND OTHER STATES, AS APPLICABLE. A STATUTORY TRUST
18 ESTABLISHED PURSUANT TO THIS SECTION IS TERMINATED UPON
19 EXTINGUISHMENT OF ALL OF THE LICENSEE'S OUTSTANDING MONEY
20 TRANSMISSION OBLIGATIONS.

21 (5) THE BANKING BOARD BY RULE MAY ALLOW OTHER TYPES OF
22 INVESTMENTS THAT THE BOARD DETERMINES ARE OF SUFFICIENT
23 LIQUIDITY AND QUALITY TO BE A PERMISSIBLE INVESTMENT. THE BANKING
24 BOARD MAY PARTICIPATE IN EFFORTS WITH OTHER STATE REGULATORS TO
25 DETERMINE THAT OTHER TYPES OF INVESTMENTS ARE OF SUFFICIENT
26 LIQUIDITY AND QUALITY TO BE A PERMISSIBLE INVESTMENT.

27 **11-110-1004. Types of permissible investments - rules.** (1) THE

1 FOLLOWING INVESTMENTS ARE PERMISSIBLE UNDER SECTION 11-110-1003:

2 (a) CASH, INCLUDING DEMAND DEPOSITS, SAVINGS DEPOSITS, AND
3 MONEY IN SUCH ACCOUNTS HELD FOR THE BENEFIT OF THE LICENSEE'S
4 CUSTOMERS IN A FEDERALLY INSURED DEPOSITORY FINANCIAL
5 INSTITUTION, AND CASH EQUIVALENTS, INCLUDING ACH ITEMS IN TRANSIT
6 TO THE LICENSEE AND ACH ITEMS OR INTERNATIONAL WIRES IN TRANSIT
7 TO A PAYEE, CASH IN TRANSIT VIA ARMORED CAR, CASH IN SMART SAFES,
8 CASH IN LICENSEE-OWNED LOCATIONS, DEBIT CARD OR CREDIT
9 CARD-FUNDED TRANSMISSION RECEIVABLES OWED BY A BANK, OR MONEY
10 MARKET MUTUAL FUNDS RATED "AAA" BY S&P GLOBAL RATINGS OR THE
11 EQUIVALENT FROM ANY ELIGIBLE RATING SERVICE;

12 (b) CERTIFICATES OF DEPOSIT OR SENIOR DEBT OBLIGATIONS OF AN
13 INSURED DEPOSITORY INSTITUTION, AS DEFINED IN SECTION 3 OF THE
14 "FEDERAL DEPOSIT INSURANCE ACT", 12 U.S.C. SEC. 1813, AS AMENDED,
15 OR AS DEFINED UNDER THE "FEDERAL CREDIT UNION ACT", 12 U.S.C. SEC.
16 1781, AS AMENDED;

17 (c) AN OBLIGATION OF THE UNITED STATES OR A COMMISSION,
18 AGENCY, OR INSTRUMENTALITY OF THE UNITED STATES; AN OBLIGATION
19 THAT IS GUARANTEED FULLY AS TO PRINCIPAL AND INTEREST BY THE
20 UNITED STATES; OR AN OBLIGATION OF A STATE OR A GOVERNMENTAL
21 SUBDIVISION, AGENCY, OR INSTRUMENTALITY OF A STATE; OR

22 (d) THE FULL DRAWABLE AMOUNT OF AN IRREVOCABLE STANDBY
23 LETTER OF CREDIT FOR WHICH THE STATED BENEFICIARY IS THE BANKING
24 BOARD THAT STIPULATES THAT THE BENEFICIARY NEED ONLY DRAW A
25 SIGHT DRAFT UNDER THE LETTER OF CREDIT AND PRESENT IT TO OBTAIN
26 MONEY UP TO THE LETTER OF CREDIT AMOUNT WITHIN SEVEN DAYS AFTER
27 PRESENTATION OF THE ITEMS REQUIRED BY SUBSECTION (2)(c) OF THIS

1 SECTION.

2 (2)(a) THE LETTER OF CREDIT DESCRIBED IN SUBSECTION (1)(d) OF
3 THIS SECTION MUST:

4 (I) BE ISSUED BY:

5 (A) A FEDERALLY INSURED DEPOSITORY FINANCIAL INSTITUTION;

6 (B) A FOREIGN BANK THAT IS AUTHORIZED UNDER FEDERAL LAW
7 TO MAINTAIN A FEDERAL AGENCY OR FEDERAL BRANCH OFFICE IN A STATE
8 OR STATES; OR

9 (C) A FOREIGN BANK THAT BEARS AN ELIGIBLE RATING, OR WHOSE
10 PARENT COMPANY BEARS AN ELIGIBLE RATING; THAT IS REGULATED,
11 SUPERVISED, AND EXAMINED BY FEDERAL OR STATE AUTHORITIES HAVING
12 REGULATORY AUTHORITY OVER BANKS, CREDIT UNIONS, AND TRUST
13 COMPANIES; AND THAT IS AUTHORIZED UNDER STATE LAW TO MAINTAIN
14 A BRANCH IN A STATE;

15 (II) BE IRREVOCABLE, BE UNCONDITIONAL, AND INDICATE THAT
16 THE LETTER OF CREDIT IS NOT SUBJECT TO ANY CONDITION OR
17 QUALIFICATIONS OUTSIDE OF THE LETTER OF CREDIT;

18 (III) NOT CONTAIN REFERENCE TO ANY OTHER AGREEMENTS,
19 DOCUMENTS, OR ENTITIES OR OTHERWISE PROVIDE FOR ANY SECURITY
20 INTEREST IN THE LICENSEE; AND

21 (IV) CONTAIN AN ISSUE DATE AND EXPIRATION DATE, AND
22 EXPRESSLY PROVIDE FOR AUTOMATIC EXTENSION, WITHOUT A WRITTEN
23 AMENDMENT, FOR AN ADDITIONAL PERIOD OF ONE YEAR AFTER THE
24 PRESENT AND EACH FUTURE EXPIRATION DATE, UNLESS THE ISSUER OF THE
25 LETTER OF CREDIT NOTIFIES THE BANKING BOARD IN WRITING BY
26 CERTIFIED OR REGISTERED MAIL OR COURIER MAIL OR OTHER RECEIPTED
27 MEANS, AT LEAST SIXTY DAYS PRIOR TO ANY EXPIRATION DATE, THAT THE

1 IRREVOCABLE LETTER OF CREDIT WILL NOT BE EXTENDED.

2 (b) IN THE EVENT OF A NOTICE OF EXPIRATION OR NONEXTENSION
3 OF A LETTER OF CREDIT ISSUED UNDER SUBSECTION (2)(a)(IV) OF THIS
4 SECTION, THE LICENSEE IS REQUIRED TO DEMONSTRATE TO THE
5 SATISFACTION OF THE BANKING BOARD, AT LEAST FIFTEEN DAYS PRIOR TO
6 EXPIRATION, THAT THE LICENSEE MAINTAINS AND WILL MAINTAIN
7 PERMISSIBLE INVESTMENTS IN ACCORDANCE WITH SECTION 11-110-1003
8 (1) UPON THE EXPIRATION OF THE LETTER OF CREDIT. IF THE LICENSEE IS
9 NOT ABLE TO DO SO, THE BOARD MAY DRAW ON THE LETTER OF CREDIT IN
10 AN AMOUNT UP TO THE AMOUNT NECESSARY TO MEET THE LICENSEE'S
11 REQUIREMENTS TO MAINTAIN PERMISSIBLE INVESTMENTS IN ACCORDANCE
12 WITH SECTION 11-110-1003 (1). A DRAW ON THE LETTER OF CREDIT BY
13 THE BOARD SHALL BE OFFSET AGAINST THE LICENSEE'S OUTSTANDING
14 MONEY TRANSMISSION OBLIGATIONS. THE DRAWN MONEY SHALL BE HELD
15 IN TRUST BY THE BOARD OR THE BOARD'S DESIGNATED AGENT, TO THE
16 EXTENT AUTHORIZED BY LAW, AS AGENT FOR THE BENEFIT OF THE
17 PURCHASERS AND HOLDERS OF THE LICENSEE'S OUTSTANDING MONEY
18 TRANSMISSION OBLIGATIONS.

19 (c) THE LETTER OF CREDIT MUST PROVIDE THAT THE ISSUER OF THE
20 LETTER OF CREDIT WILL HONOR, AT SIGHT, A PRESENTATION MADE BY THE
21 BENEFICIARY TO THE ISSUER OF THE FOLLOWING DOCUMENTS ON OR PRIOR
22 TO THE EXPIRATION DATE OF THE LETTER OF CREDIT:

23 (I) THE ORIGINAL LETTER OF CREDIT, INCLUDING ANY
24 AMENDMENTS; AND

25 (II) A WRITTEN STATEMENT FROM THE BENEFICIARY STATING THAT
26 ANY OF THE FOLLOWING EVENTS HAVE OCCURRED:

27 (A) THE FILING OF A PETITION BY OR AGAINST THE LICENSEE

1 UNDER THE UNITED STATES BANKRUPTCY CODE, 11 U.S.C. SECS. 101 TO
2 110, AS AMENDED, FOR BANKRUPTCY OR REORGANIZATION;

3 (B) THE FILING OF A PETITION BY OR AGAINST THE LICENSEE FOR
4 RECEIVERSHIP OR THE COMMENCEMENT OF ANY OTHER JUDICIAL OR
5 ADMINISTRATIVE PROCEEDING FOR ITS DISSOLUTION OR REORGANIZATION;

6 (C) THE SEIZURE OF ASSETS OF A LICENSEE BY A BANKING BOARD
7 PURSUANT TO AN EMERGENCY ORDER ISSUED IN ACCORDANCE WITH
8 APPLICABLE LAW, ON THE BASIS OF AN ACTION, VIOLATION, OR CONDITION
9 THAT HAS CAUSED OR IS LIKELY TO CAUSE THE INSOLVENCY OF THE
10 LICENSEE; OR

11 (D) THE BENEFICIARY HAS RECEIVED NOTICE OF EXPIRATION OR
12 NONEXTENSION OF A LETTER OF CREDIT, AND THE LICENSEE FAILED TO
13 DEMONSTRATE TO THE SATISFACTION OF THE BENEFICIARY THAT THE
14 LICENSEE WILL MAINTAIN PERMISSIBLE INVESTMENTS IN ACCORDANCE
15 WITH SECTION 11-110-1003 (1) UPON THE EXPIRATION OR NONEXTENSION
16 OF THE LETTER OF CREDIT.

17 (d) THE BANKING BOARD MAY DESIGNATE AN AGENT TO SERVE ON
18 THE BOARD'S BEHALF AS BENEFICIARY TO A LETTER OF CREDIT SO LONG AS
19 THE AGENT AND LETTER OF CREDIT MEET REQUIREMENTS ESTABLISHED BY
20 THE BOARD. THE BOARD'S AGENT MAY SERVE AS AGENT FOR MULTIPLE
21 LICENSING AUTHORITIES FOR A SINGLE IRREVOCABLE LETTER OF CREDIT IF
22 THE PROCEEDS OF THE DRAWABLE AMOUNT FOR THE PURPOSES OF
23 SUBSECTION (1)(d) OF THIS SECTION ARE ASSIGNED TO THE BOARD.

24 (e) THE BANKING BOARD IS AUTHORIZED AND ENCOURAGED TO
25 PARTICIPATE IN MULTISTATE LICENSING PROCESSES DESIGNED TO
26 FACILITATE THE ISSUANCE AND ADMINISTRATION OF LETTERS OF CREDIT,
27 INCLUDING BUT NOT LIMITED TO SERVICES PROVIDED BY NMLS AND THE

1 STATE REGULATORY REGISTRY, LLC.

2 (3) UNLESS PERMITTED BY THE BANKING BOARD BY RULE OR BY
3 ORDER TO EXCEED THE LIMITS AS SET FORTH IN THIS SUBSECTION (3), THE
4 FOLLOWING INVESTMENTS ARE PERMISSIBLE UNDER SECTION 11-110-1003,
5 TO THE EXTENT SPECIFIED:

6 (a) (I) EXCEPT AS PROVIDED IN SUBSECTION (3)(a)(II) OF THIS
7 SECTION, RECEIVABLES THAT ARE PAYABLE TO A LICENSEE FROM THE
8 LICENSEE'S AUTHORIZED DELEGATES IN THE ORDINARY COURSE OF
9 BUSINESS THAT ARE LESS THAN SEVEN DAYS OLD, UP TO FIFTY PERCENT OF
10 THE AGGREGATE VALUE OF THE LICENSEE'S TOTAL PERMISSIBLE
11 INVESTMENTS.

12 (II) OF THE RECEIVABLES PERMISSIBLE UNDER SUBSECTION
13 (3)(a)(I) OF THIS SECTION, RECEIVABLES THAT ARE PAYABLE TO A
14 LICENSEE FROM A SINGLE AUTHORIZED DELEGATE IN THE ORDINARY
15 COURSE OF BUSINESS MUST NOT EXCEED TEN PERCENT OF THE AGGREGATE
16 VALUE OF THE LICENSEE'S TOTAL PERMISSIBLE INVESTMENTS.

17 (b) THE FOLLOWING INVESTMENTS, UP TO TWENTY PERCENT PER
18 CATEGORY AND COMBINED UP TO FIFTY PERCENT OF THE AGGREGATE
19 VALUE OF THE LICENSEE'S TOTAL PERMISSIBLE INVESTMENTS:

20 (I) A SHORT-TERM INVESTMENT OF UP TO SIX MONTHS BEARING AN
21 ELIGIBLE RATING;

22 (II) COMMERCIAL PAPER BEARING AN ELIGIBLE RATING;

23 (III) A BILL, NOTE, BOND, OR DEBENTURE BEARING AN ELIGIBLE
24 RATING;

25 (IV) UNITED STATES TRI-PARTY REPURCHASE AGREEMENTS,
26 COLLATERALIZED AT ONE HUNDRED PERCENT OR MORE, WITH UNITED
27 STATES GOVERNMENT OR AGENCY SECURITIES, MUNICIPAL BONDS, OR

1 OTHER SECURITIES BEARING AN ELIGIBLE RATING;
2 (V) MONEY MARKET MUTUAL FUNDS RATED LESS THAN "AAA"
3 AND EQUAL TO OR HIGHER THAN "A-" BY S&P GLOBAL RATINGS OR THE
4 EQUIVALENT FROM ANY OTHER ELIGIBLE RATING SERVICE; AND
5 (VI) A MUTUAL FUND OR OTHER INVESTMENT FUND COMPOSED
6 SOLELY AND EXCLUSIVELY OF ONE OR MORE PERMISSIBLE INVESTMENTS
7 LISTED IN SUBSECTIONS (1)(a) TO (1)(c) OF THIS SECTION; AND
8 (c) CASH, INCLUDING DEMAND DEPOSITS, SAVINGS DEPOSITS, AND
9 CASH IN SUCH ACCOUNTS HELD FOR THE BENEFIT OF THE LICENSEE'S
10 CUSTOMERS AT FOREIGN DEPOSITORY INSTITUTIONS, UP TO TEN PERCENT
11 OF THE AGGREGATE VALUE OF THE LICENSEE'S TOTAL PERMISSIBLE
12 INVESTMENTS IF THE LICENSEE HAS RECEIVED A SATISFACTORY RATING IN
13 THE LICENSEE'S MOST RECENT EXAMINATION AND IF THE FOREIGN
14 DEPOSITORY INSTITUTION:
15 (I) HAS AN ELIGIBLE RATING;
16 (II) IS REGISTERED UNDER THE FEDERAL "FOREIGN ACCOUNT TAX
17 COMPLIANCE ACT", PUB.L. 111-47;
18 (III) IS NOT LOCATED IN ANY COUNTRY SUBJECT TO SANCTIONS
19 FROM THE OFFICE OF FOREIGN ASSETS CONTROL; AND
20 (IV) IS NOT LOCATED IN A HIGH-RISK OR NONCOOPERATIVE
21 JURISDICTION AS DESIGNATED BY THE INTERNATIONAL FINANCIAL ACTION
22 TASK FORCE.

23 PART 11
24 ENFORCEMENT AND JUDICIAL REVIEW

25 **11-110-1101. Suspension and revocation of license.** (1) THE
26 BANKING BOARD MAY SUSPEND OR REVOKE A LICENSE OR ORDER A
27 LICENSEE TO REVOKE THE DESIGNATION OF AN AUTHORIZED DELEGATE IF:

1 (a) THE LICENSEE VIOLATES THIS ARTICLE 110 OR A RULE ADOPTED
2 OR AN ORDER ISSUED UNDER THIS ARTICLE 110;

3 (b) THE LICENSEE DOES NOT COOPERATE WITH AN EXAMINATION
4 OR INVESTIGATION BY THE BOARD;

5 (c) THE LICENSEE ENGAGES IN FRAUD, INTENTIONAL
6 MISREPRESENTATION, OR GROSS NEGLIGENCE;

7 (d) AN AUTHORIZED DELEGATE IS CONVICTED OF A VIOLATION OF
8 A STATE OR FEDERAL ANTI-MONEY LAUNDERING STATUTE, OR VIOLATES
9 A RULE ADOPTED OR AN ORDER ISSUED UNDER THIS ARTICLE 110, AS A
10 RESULT OF THE LICENSEE'S WILLFUL MISCONDUCT OR WILLFUL BLINDNESS;

11 (e) THE COMPETENCE, EXPERIENCE, CHARACTER, OR GENERAL
12 FITNESS OF THE LICENSEE, AUTHORIZED DELEGATE, PERSON IN CONTROL
13 OF THE LICENSEE, KEY INDIVIDUAL, OR RESPONSIBLE PERSON OF THE
14 AUTHORIZED DELEGATE INDICATES THAT IT IS NOT IN THE PUBLIC INTEREST
15 TO PERMIT THE PERSON TO PROVIDE MONEY TRANSMISSION;

16 (f) THE LICENSEE ENGAGES IN AN UNSAFE OR UNSOUND PRACTICE;

17 (g) THE LICENSEE IS INSOLVENT, SUSPENDS PAYMENT OF ITS
18 OBLIGATIONS, OR MAKES A GENERAL ASSIGNMENT FOR THE BENEFIT OF ITS
19 CREDITORS; OR

20 (h) THE LICENSEE DOES NOT REMOVE AN AUTHORIZED DELEGATE
21 AFTER THE BOARD ISSUES AND SERVES UPON THE LICENSEE A FINAL
22 ORDER, INCLUDING A FINDING THAT THE AUTHORIZED DELEGATE HAS
23 VIOLATED THIS ARTICLE 110.

24 (2) IN DETERMINING WHETHER A LICENSEE IS ENGAGING IN AN
25 UNSAFE OR UNSOUND PRACTICE, THE BANKING BOARD MAY CONSIDER THE
26 SIZE AND CONDITION OF THE LICENSEE'S MONEY TRANSMISSION, THE
27 MAGNITUDE OF THE LOSS, THE GRAVITY OF THE VIOLATION OF THIS

1 ARTICLE 110 OR A RULE ADOPTED OR ORDER ISSUED UNDER THIS ARTICLE
2 110, AND THE PREVIOUS CONDUCT OF THE PERSON INVOLVED.

3 **11-110-1102. Suspension and revocation of authorized**
4 **delegates.** (1) THE BANKING BOARD MAY ISSUE AN ORDER SUSPENDING
5 OR REVOKING THE DESIGNATION OF AN AUTHORIZED DELEGATE IF THE
6 BOARD FINDS THAT:

7 (a) THE AUTHORIZED DELEGATE VIOLATED THIS ARTICLE 110 OR
8 A RULE ADOPTED OR AN ORDER ISSUED UNDER THIS ARTICLE 110;

9 (b) THE AUTHORIZED DELEGATE DID NOT COOPERATE WITH AN
10 EXAMINATION OR INVESTIGATION BY THE BOARD;

11 (c) THE AUTHORIZED DELEGATE ENGAGED IN FRAUD, INTENTIONAL
12 MISREPRESENTATION, OR GROSS NEGLIGENCE;

13 (d) THE AUTHORIZED DELEGATE IS CONVICTED OF A VIOLATION OF
14 A STATE OR FEDERAL ANTI-MONEY LAUNDERING STATUTE;

15 (e) THE COMPETENCE, EXPERIENCE, CHARACTER, OR GENERAL
16 FITNESS OF THE AUTHORIZED DELEGATE OR A PERSON IN CONTROL OF THE
17 AUTHORIZED DELEGATE INDICATES THAT IT IS NOT IN THE PUBLIC INTEREST
18 TO PERMIT THE AUTHORIZED DELEGATE TO PROVIDE MONEY
19 TRANSMISSION; OR

20 (f) THE AUTHORIZED DELEGATE IS ENGAGING IN AN UNSAFE OR
21 UNSOUND PRACTICE.

22 (2) IN DETERMINING WHETHER AN AUTHORIZED DELEGATE IS
23 ENGAGING IN AN UNSAFE OR UNSOUND PRACTICE, THE BANKING BOARD
24 MAY CONSIDER THE SIZE AND CONDITION OF THE AUTHORIZED DELEGATE'S
25 PROVISION OF MONEY TRANSMISSION, THE MAGNITUDE OF THE LOSS, THE
26 GRAVITY OF THE VIOLATION OF THIS ARTICLE 110 OR A RULE ADOPTED OR
27 ORDER ISSUED UNDER THIS ARTICLE 110, AND THE PREVIOUS CONDUCT OF

1 THE AUTHORIZED DELEGATE.

2 (3) AN AUTHORIZED DELEGATE MAY APPLY FOR RELIEF FROM A
3 SUSPENSION OR REVOCATION OF DESIGNATION AS AN AUTHORIZED
4 DELEGATE ACCORDING TO PROCEDURES PRESCRIBED BY THE BANKING
5 BOARD BY RULE.

6 **11-110-1103. Orders to cease and desist.** (1) IF THE BANKING
7 BOARD DETERMINES THAT A VIOLATION OF THIS ARTICLE 110 OR A RULE
8 ADOPTED OR AN ORDER ISSUED UNDER THIS ARTICLE 110 BY A LICENSEE
9 OR AUTHORIZED DELEGATE IS LIKELY TO CAUSE IMMEDIATE AND
10 IRREPARABLE HARM TO THE LICENSEE, THE LICENSEE'S CUSTOMERS, OR
11 THE PUBLIC AS A RESULT OF THE VIOLATION, OR CAUSE INSOLVENCY OR
12 SIGNIFICANT DISSIPATION OF ASSETS OF THE LICENSEE, THE BOARD MAY
13 ISSUE AN ORDER REQUIRING THE LICENSEE OR AUTHORIZED DELEGATE TO
14 CEASE AND DESIST FROM THE VIOLATION. THE ORDER BECOMES EFFECTIVE
15 UPON SERVICE OF THE ORDER UPON THE LICENSEE OR AUTHORIZED
16 DELEGATE.

17 (2) THE BANKING BOARD MAY ISSUE AN ORDER AGAINST A
18 LICENSEE TO CEASE AND DESIST FROM PROVIDING MONEY TRANSMISSION
19 THROUGH AN AUTHORIZED DELEGATE THAT IS THE SUBJECT OF A
20 SEPARATE ORDER BY THE BOARD.

21 (3) AN ORDER TO CEASE AND DESIST REMAINS EFFECTIVE AND
22 ENFORCEABLE PENDING THE COMPLETION OF AN ADMINISTRATIVE
23 PROCEEDING PURSUANT TO STATE ADMINISTRATIVE PROCEDURES.

24 (4) A LICENSEE OR AN AUTHORIZED DELEGATE THAT IS SERVED
25 WITH AN ORDER TO CEASE AND DESIST MAY PETITION THE APPROPRIATE
26 COURT FOR A JUDICIAL ORDER SETTING ASIDE, LIMITING, OR SUSPENDING
27 THE ENFORCEMENT, OPERATION, OR EFFECTIVENESS OF THE ORDER

1 PENDING THE COMPLETION OF AN ADMINISTRATIVE PROCEEDING
2 PURSUANT TO STATE ADMINISTRATIVE PROCEDURES.

3 (5) AN ORDER TO CEASE AND DESIST EXPIRES WITHIN TEN DAYS
4 AFTER THE ORDER IS ISSUED UNLESS THE BANKING BOARD COMMENCES AN
5 ADMINISTRATIVE PROCEEDING PURSUANT TO STATE ADMINISTRATIVE
6 PROCEDURES.

7 **11-110-1104. Consent orders.** THE BANKING BOARD MAY ENTER
8 INTO A CONSENT ORDER AT ANY TIME WITH A PERSON TO RESOLVE A
9 MATTER ARISING UNDER THIS ARTICLE 110 OR A RULE ADOPTED OR ORDER
10 ISSUED UNDER THIS ARTICLE 110. A CONSENT ORDER MUST BE SIGNED BY
11 THE PERSON TO WHOM IT IS ISSUED OR BY THE PERSON'S AUTHORIZED
12 REPRESENTATIVE AND MUST INDICATE AGREEMENT WITH THE TERMS
13 CONTAINED IN THE ORDER. A CONSENT ORDER MAY PROVIDE THAT IT DOES
14 NOT CONSTITUTE AN ADMISSION BY A PERSON THAT THIS ARTICLE 110 OR
15 A RULE ADOPTED OR AN ORDER ISSUED UNDER THIS ARTICLE 110 HAS BEEN
16 VIOLATED.

17 **11-110-1105. Criminal penalties.** (1) AN INDIVIDUAL THAT
18 INTENTIONALLY MAKES A FALSE STATEMENT, MISREPRESENTATION, OR
19 FALSE CERTIFICATION IN A RECORD FILED OR REQUIRED TO BE MAINTAINED
20 UNDER THIS ARTICLE 110 OR THAT INTENTIONALLY MAKES A FALSE ENTRY
21 OR OMITS A MATERIAL ENTRY IN SUCH A RECORD COMMITS A CLASS 2
22 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION
23 18-1.3-501.

24 (2) AN INDIVIDUAL THAT KNOWINGLY ENGAGES IN AN ACTIVITY
25 FOR WHICH A LICENSE IS REQUIRED UNDER THIS ARTICLE 110 WITHOUT
26 BEING LICENSED UNDER THIS ARTICLE 110 AND THAT RECEIVES MORE
27 THAN FIVE HUNDRED DOLLARS IN COMPENSATION WITHIN A THIRTY-DAY

1 PERIOD FROM THIS ACTIVITY COMMITS A CLASS 2 MISDEMEANOR AND
2 SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501.

3 (3) AN INDIVIDUAL THAT KNOWINGLY ENGAGES IN AN ACTIVITY
4 FOR WHICH A LICENSE IS REQUIRED UNDER THIS ARTICLE 110 WITHOUT
5 BEING LICENSED UNDER THIS ARTICLE 110 AND THAT RECEIVES NO MORE
6 THAN FIVE HUNDRED DOLLARS IN COMPENSATION WITHIN A THIRTY-DAY
7 PERIOD FROM THIS ACTIVITY COMMITS A CLASS 2 MISDEMEANOR AND
8 SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501.

9 **11-110-1106. Civil penalties.** THE BANKING BOARD MAY ASSESS
10 A CIVIL PENALTY AGAINST A PERSON THAT VIOLATES THIS ARTICLE 110 OR
11 A RULE ADOPTED OR AN ORDER ISSUED UNDER THIS ARTICLE 110 IN AN
12 AMOUNT AS DETERMINED BY THE BOARD FOR EACH DAY THE VIOLATION
13 IS OUTSTANDING, PLUS THIS STATE'S COSTS AND EXPENSES FOR THE
14 INVESTIGATION AND PROSECUTION OF THE MATTER, INCLUDING
15 REASONABLE ATTORNEY FEES.

16 **11-110-1107. Unlicensed persons.** (1) IF THE BANKING BOARD
17 HAS REASON TO BELIEVE THAT A PERSON HAS VIOLATED OR IS VIOLATING
18 SECTION 11-110-501, THE BOARD MAY ISSUE AN ORDER TO SHOW CAUSE
19 WHY AN ORDER TO CEASE AND DESIST SHOULD NOT BE ISSUED REQUIRING
20 THAT THE PERSON CEASE AND DESIST FROM THE VIOLATION OF SECTION
21 11-110-501.

22 (2) IN AN EMERGENCY, THE BANKING BOARD MAY PETITION THE
23 APPROPRIATE COURT FOR THE ISSUANCE OF A TEMPORARY RESTRAINING
24 ORDER EX PARTE PURSUANT TO THE RULES OF CIVIL PROCEDURE.

25 (3) AN ORDER TO CEASE AND DESIST BECOMES EFFECTIVE UPON
26 SERVICE OF THE ORDER UPON THE PERSON.

27 (4) AN ORDER TO CEASE AND DESIST REMAINS EFFECTIVE AND

1 ENFORCEABLE PENDING THE COMPLETION OF AN ADMINISTRATIVE
2 PROCEEDING PURSUANT TO STATE ADMINISTRATIVE PROCEDURES.

3 (5) A PERSON THAT IS SERVED WITH AN ORDER TO CEASE AND
4 DESIST FOR VIOLATING SECTION 11-110-501 MAY PETITION THE
5 APPROPRIATE COURT FOR A JUDICIAL ORDER SETTING ASIDE, LIMITING, OR
6 SUSPENDING THE ENFORCEMENT, OPERATION, OR EFFECTIVENESS OF THE
7 ORDER PENDING THE COMPLETION OF AN ADMINISTRATIVE PROCEEDING
8 PURSUANT TO STATE ADMINISTRATIVE PROCEDURES.

9 **11-110-1108. Judicial review.** A PERSON AGGRIEVED AND
10 DIRECTLY AFFECTED BY AN ORDER OF THE BANKING BOARD ISSUED UNDER
11 THIS ARTICLE 110 MAY SEEK A REVIEW IN THE DISTRICT COURT OF THIS
12 STATE IN AND FOR THE COUNTY IN WHICH THE PRINCIPAL PLACE OF
13 BUSINESS OF THE APPLICANT, LICENSEE, OR AUTHORIZED DELEGATE IS
14 LOCATED WITHIN THIRTY DAYS AFTER RECEIPT OF WRITTEN NOTICE OF THE
15 ORDER.

16 PART 12

17 MISCELLANEOUS PROVISIONS

18 **11-110-1201. Uniformity of application and construction.** IN
19 APPLYING AND CONSTRUING THIS ARTICLE 110, CONSIDERATION MUST BE
20 GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT
21 TO ITS SUBJECT MATTER AMONG STATES THAT ENACT IT.

22 **11-110-1202. Severability.** IF ANY PROVISION OF THIS ARTICLE
23 110 OR THE APPLICATION THEREOF TO ANY PERSON OR CIRCUMSTANCE IS
24 HELD INVALID, SUCH INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OR
25 APPLICATIONS OF THIS ARTICLE 110 THAT CAN BE GIVEN EFFECT WITHOUT
26 THE INVALID PROVISION OR APPLICATION, AND TO THIS END THE
27 PROVISIONS OF THIS ARTICLE 110 ARE DECLARED TO BE SEVERABLE.

1 **11-110-1203. Repeal of article - review of functions.** THIS
2 ARTICLE 110 IS REPEALED, EFFECTIVE SEPTEMBER 1, 2030. BEFORE THE
3 REPEAL, THIS ARTICLE 110 IS SCHEDULE FOR REVIEW IN ACCORDANCE
4 WITH SECTION 24-34-104.

5 **SECTION 2. Act subject to petition - effective date.** This act
6 takes effect at 12:01 a.m. on the day following the expiration of the
7 ninety-day period after final adjournment of the general assembly; except
8 that, if a referendum petition is filed pursuant to section 1 (3) of article V
9 of the state constitution against this act or an item, section, or part of this
10 act within such period, then the act, item, section, or part will not take
11 effect unless approved by the people at the general election to be held in
12 November 2026 and, in such case, will take effect on the date of the
13 official declaration of the vote thereon by the governor.