

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 24-0573.01 Jery Payne x2157

HOUSE BILL 24-1328

HOUSE SPONSORSHIP

English and Clifford, Amabile, Lindstedt, Ricks

SENATE SPONSORSHIP

Rich,

House Committees
Business Affairs & Labor

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE CONTINUATION OF THE REGULATION OF MONEY
102 TRANSMITTERS, AND, IN CONNECTION THEREWITH,
103 IMPLEMENTING THE RECOMMENDATIONS IN THE 2023 SUNSET
104 REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES.

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/>.)

Sunset Process - House Business Affairs and Labor Committee. The bill implements the recommendations of the department of regulatory agencies, as specified in the department's sunset review of

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.

the regulation of money transmitters, as follows:

- **Sections 1 and 2** of the bill continue the regulation of money transmitters until 2033;
- **Section 3** authorizes the banking board (board) to suspend a money transmitter's license;
- **Section 4** expands the requirement to furnish surety bond coverage to include all money transmission, rather than merely exchange;
- **Section 5** increases the maximum penalty for failure to report from \$250 to \$750 per day and for failure to allow an examination from \$100 to \$1,000 per day;
- **Section 6** authorizes the state bank commissioner to submit fingerprints directly to the federal bureau of investigation for a criminal history record check;
- **Section 7** repeals the requirement that license holders annually report the name, address, and telephone number of each owner of at least 10% of the agent of the money transmitter;
- **Section 8** authorizes the board to issue cease-and-desist orders and sets procedural requirements;
- **Section 9** expands the licensing exemption for in-state banks to also cover out-of-state banks and repeals the licensing exemption for telegraph or cable companies; and
- **Sections 10 through 12** replace gendered pronouns with gender-neutral terms.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-34-104, **repeal**
3 (25)(a)(II); and **add** (34)(a)(IX) as follows:

4 **24-34-104. General assembly review of regulatory agencies**
5 **and functions for repeal, continuation, or reestablishment - legislative**
6 **declaration - repeal.** (25) (a) The following agencies, functions, or both,
7 are scheduled for repeal on September 1, 2024:

8 (II) ~~The licensing functions of the banking board and the state~~
9 ~~bank commissioner specified in article 110 of title 11 regarding persons~~
10 ~~who transmit money;~~

11 (34) (a) The following agencies, functions, or both, are scheduled

1 for repeal on September 1, 2033:

2 (IX) THE FUNCTIONS OF THE BANKING BOARD AND THE STATE
3 BANK COMMISSIONER RELATED TO MONEY TRANSMITTERS SPECIFIED IN
4 ARTICLE 110 OF TITLE 11.

5 **SECTION 2.** In Colorado Revised Statutes, **amend** 11-110-121
6 as follows:

7 **11-110-121. Repeal of article - review of functions.** (1) This
8 article 110 is repealed, effective September 1, ~~2024~~ 2033.

9 (2) ~~Prior to such~~ BEFORE THE repeal, ~~the licensing functions of the~~
10 ~~commissioner and the banking board shall be reviewed as provided for in~~
11 THIS ARTICLE 110 IS SCHEDULED FOR REVIEW IN ACCORDANCE WITH
12 section 24-34-104.

13 **SECTION 3.** In Colorado Revised Statutes, 11-110-115, **amend**
14 (1) and (2) introductory portion as follows:

15 **11-110-115. Revocation, suspension, or surrender of license.**

16 (1) The banking board may, upon ten days' notice served personally upon
17 the licensee stating the contemplated action and the grounds ~~therefor~~ FOR
18 THE ACTION, hold a hearing at which the licensee ~~shall have~~ HAS a
19 reasonable opportunity to be heard, for the purpose of determining
20 whether a license should be SUSPENDED OR revoked.

21 (2) After the hearing the banking board may SUSPEND OR revoke
22 any license issued under this article 110 if it finds that:

23 **SECTION 4.** In Colorado Revised Statutes, 11-110-108, **amend**
24 (1)(a), (1)(b), and (4) as follows:

25 **11-110-108. Bond - condition - amount - rules.** (1) (a) EXCEPT
26 AS OTHERWISE PROVIDED IN THIS SUBSECTION (1), each approved
27 applicant shall furnish a corporate surety bond in the principal sum of one

1 million dollars, ~~except as otherwise provided in this subsection (1)~~, by a
2 bonding company or insurance company authorized to do business in this
3 state, in which the applicant is named as obligor, ~~to be approved by the~~
4 ~~banking board~~, that ~~shall run~~ RUNS to the state of Colorado for the use and
5 benefit of the state and of any creditor of the licensee for any liability
6 incurred on ~~any exchange issued~~ MONEY TRANSMISSION by the licensee.
7 The bond ~~shall~~ MUST BE APPROVED BY THE BANKING BOARD AND be
8 conditioned that the obligor will faithfully conform to and abide by the
9 provisions of this article 110, ~~and~~ will honestly and faithfully apply all
10 funds received for the performance of all obligations and undertakings for
11 ~~exchange issued and sold under~~ MONEY TRANSMISSION SUBJECT TO this
12 article 110, and will pay to the state and to any person all money that
13 becomes due ~~and owing~~ to the state or to the person under ~~the provisions~~
14 ~~of this article 110 because of any exchange sold or issued by the licensee~~
15 MONEY TRANSMISSION. The bond shall remain in force ~~and effect~~ until the
16 surety is released from liability by the banking board or until the bond is
17 canceled by the surety; ~~which~~ EXCEPT THAT A cancellation may be had
18 only upon ninety days' written notice to the banking board. The
19 cancellation ~~shall~~ DOES not affect any liability incurred or accrued prior
20 to the termination of the ninety-day period. If the banking board finds, at
21 any time, ~~any~~ A bond to be exhausted, THE LICENSEE SHALL OBTAIN AND
22 FILE a replacement bond in an equal amount ~~shall be filed by the licensee~~
23 within thirty days after THE written demand ~~therefor~~ IS RECEIVED.

24 (b) The banking board shall by rule establish financial standards:

25 (I) By which to evaluate the financial condition or solvency of
26 licensees; and

27 (II) For the bond amount set under subsection (1)(a) of this section

1 to be decreased to not less than two hundred fifty thousand dollars,
2 following application by the licensee and an opportunity for hearing
3 before the banking board, in such amounts as necessary up to the amount
4 provided in subsection (1)(a) of this section to protect purchasers of
5 ~~exchange~~ MONEY TRANSMISSION.

6 (4) It is the intent of the general assembly that in applying the
7 provisions of this section the purpose of the required bond and
8 permissible investments is to protect the Colorado purchasers of ~~exchange~~
9 MONEY TRANSMISSION, and the amount of the bond and investments that
10 are required of any licensee should not be more than is necessary to afford
11 the protection given the financial condition of the licensee as determined
12 under generally accepted accounting principles.

13 **SECTION 5.** In Colorado Revised Statutes, 11-110-111, **amend**
14 (1)(a) and (2)(c) as follows:

15 **11-110-111. Examination - fee - financial statements and**
16 **reports to commissioner - change in control - penalties.** (1) (a) The
17 commissioner may examine the books and records of a licensee using
18 risk-based criteria and considering other available regulatory mechanisms
19 as directed by the banking board; shall make and file in the office of the
20 commissioner a correct report in detail disclosing the results of the
21 examination; and shall mail a copy of the report to the licensee examined.
22 If the licensee's records are located outside this state, the licensee shall,
23 at the option of the licensee, either make them available to the
24 commissioner at a convenient location within this state or pay the
25 reasonable and necessary expenses for the commissioner or the
26 commissioner's representative to examine them at the place where they
27 are maintained. The commissioner may designate representatives,

1 including comparable officials of the state in which the records are
2 located, to inspect them on behalf of the commissioner. For the
3 examination, the commissioner shall charge a fee in an amount set by the
4 banking board pursuant to section 11-102-104 (11). If any licensee
5 refuses to permit the commissioner to make an examination, the licensee
6 shall be subject to such penalty as the commissioner may assess, not in
7 excess of one ~~hundred~~ THOUSAND dollars for each day ~~any such~~ THE
8 refusal ~~shall continue~~ CONTINUES.

9 (2) (c) If any licensee fails to submit any statement or report to the
10 commissioner as required by this subsection (2), the licensee shall pay to
11 the commissioner a penalty of ~~two~~ SEVEN hundred fifty dollars for each
12 ~~additional~~ day of delinquency as set by the banking board pursuant to
13 section 11-102-104 (11); except that, if in the opinion of the banking
14 board the delay is excusable for good cause shown, ~~no penalty shall be~~
15 ~~paid~~ THE LICENSEE IS NOT SUBJECT TO THE PENALTY.

16 **SECTION 6.** In Colorado Revised Statutes, 11-110-107, **amend**
17 (1) introductory portion and (1)(e) as follows:

18 **11-110-107. Application for license - rules.** (1) Application for
19 a license ~~shall~~ MUST be made in writing, under oath, to the banking board
20 on such form as it may prescribe. The application ~~shall~~ MUST:

21 (e) (I) Contain a set of fingerprints for each of the owners,
22 principal shareholders, principal members, directors, trustees, officers, or
23 other managing officials, WHO MUST PAY THE ACTUAL COSTS OF THE
24 RECORD CHECK.

25 (II) The commissioner shall ~~forward~~ PERFORM A
26 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK OF THE PERSONS
27 DESCRIBED IN SUBSECTION (1)(e)(I) OF THIS SECTION BY FORWARDING the

1 fingerprints to EITHER the FEDERAL BUREAU OF INVESTIGATION OR THE
2 Colorado bureau of investigation. ~~for the purpose of obtaining a~~
3 ~~fingerprint-based criminal history record check.~~

4 (III) Upon receipt of fingerprints and payment for the costs, the
5 Colorado bureau of investigation shall conduct a state and national
6 fingerprint-based criminal history record check utilizing records of the
7 Colorado bureau of investigation and the federal bureau of investigation.
8 THE COLORADO BUREAU OF INVESTIGATION SHALL RETURN THE RESULTS
9 OF ITS CRIMINAL HISTORY RECORD CHECK TO THE BOARD, AND the board
10 ~~shall be~~ IS the authorized agency to receive information regarding the
11 ~~result of any national criminal history record check. Only the actual costs~~
12 ~~of the record check shall be borne by the applicant~~ THE RESULTS OF THE
13 FEDERAL BUREAU OF INVESTIGATION'S CRIMINAL HISTORY RECORD CHECK.

14 **SECTION 7.** In Colorado Revised Statutes, 11-110-201, **repeal**
15 (1)(b) as follows:

16 **11-110-201. Agent information - rules.** (1) A money transmitter
17 licensed pursuant to part 1 of this article 110 shall annually send the
18 following information to the banking board on such form as it may
19 prescribe:

20 (b) ~~The name, address, and telephone number of each of the~~
21 ~~owners of the agent holding more than a ten percent interest in the~~
22 ~~business if the agent is a partnership or an entity created pursuant to title~~
23 ~~7;~~

24 **SECTION 8.** In Colorado Revised Statutes, 11-110-119, **add**
25 (1)(d) as follows:

26 **11-110-119. Civil remedies - restraining orders -**
27 **cease-and-desist orders - injunctions.** (1) (d) (I) (A) IF THE

1 COMMISSIONER HAS CREDIBLE EVIDENCE THAT A PERSON IS VIOLATING OR
2 HAS VIOLATED THIS ARTICLE 110 AND THE VIOLATION CAUSES AN
3 IMMINENT RISK OF HARM TO THE PUBLIC, THE COMMISSIONER MAY ISSUE
4 AN ORDER TO CEASE AND DESIST FROM THE VIOLATION. THE ORDER MUST
5 SET FORTH THE STATUTES AND RULES ALLEGED TO HAVE BEEN VIOLATED,
6 THE FACTS ALLEGED TO HAVE CONSTITUTED THE VIOLATION, AND THE
7 REQUIREMENT THAT VIOLATIONS OR UNLICENSED PRACTICE IMMEDIATELY
8 CEASE.

9 (B) WITHIN TEN DAYS AFTER SERVICE OF THE ORDER TO CEASE
10 AND DESIST PURSUANT TO SUBSECTION (1)(d)(I)(A) OF THIS SECTION, THE
11 RESPONDENT MAY REQUEST A HEARING ON THE QUESTION OF WHETHER A
12 VIOLATION OF THIS ARTICLE 110 HAS OCCURRED.

13 (II) (A) IF THE COMMISSIONER HAS CREDIBLE EVIDENCE THAT A
14 PERSON IS VIOLATING OR HAS VIOLATED THIS ARTICLE 110, THE
15 COMMISSIONER MAY ISSUE AN ORDER TO SHOW CAUSE AS TO WHY THE
16 COMMISSIONER SHOULD NOT ISSUE A FINAL ORDER DIRECTING THE PERSON
17 TO CEASE AND DESIST FROM THE UNLAWFUL ACT OR UNLICENSED
18 PRACTICE. THE COMMISSIONER SHALL PROMPTLY NOTIFY THE PERSON OF
19 THE ISSUANCE OF THE ORDER TO SHOW CAUSE AND SHALL INCLUDE IN THE
20 NOTICE A COPY OF THE ORDER AND THE FACTUAL AND LEGAL BASIS FOR
21 THE ORDER.

22 (B) IF THE COMMISSIONER REASONABLY FINDS FOLLOWING A
23 HEARING THAT THE PERSON AGAINST WHOM THE COMMISSIONER ISSUED
24 THE ORDER TO SHOW CAUSE IS ACTING OR HAS ACTED WITHOUT THE
25 REQUIRED LICENSE OR HAS OR IS ABOUT TO ENGAGE IN ACTS OR PRACTICES
26 CONSTITUTING VIOLATIONS OF THIS ARTICLE 110, THE COMMISSIONER MAY
27 ISSUE A FINAL CEASE-AND-DESIST ORDER DIRECTING THE PERSON TO

1 CEASE AND DESIST FROM FURTHER UNLAWFUL ACTS OR PRACTICES.

2 (C) THE COMMISSIONER SHALL PROVIDE NOTICE OF THE FINAL
3 CEASE-AND-DESIST ORDER WITHIN TEN CALENDAR DAYS AFTER THE
4 REQUIRED HEARING. THE FINAL ORDER IS EFFECTIVE WHEN ISSUED AND
5 CONSTITUTES A FINAL ORDER FOR PURPOSES OF JUDICIAL REVIEW.

6 (III) THE COMMISSIONER SHALL TRANSMIT NOTICES AND ORDERS
7 REQUIRED BY THIS SUBSECTION (1)(d) BY PERSONAL SERVICE, BY
8 FIRST-CLASS UNITED STATES MAIL, POSTAGE PREPAID, OR BY OTHER
9 REASONABLY PRACTICABLE MEANS UPON ANY PERSON AGAINST WHOM
10 THE ORDER IS ISSUED. PERSONAL SERVICE OR PROOF OF RECEIPT OF
11 MAILING OF A NOTICE OR ORDER OR OTHER REASONABLY EFFECTIVE
12 DOCUMENTATION OF RECEIPT CONSTITUTES NOTICE TO THE PERSON OF THE
13 EXISTENCE AND CONTENTS OF THE NOTICE OR ORDER.

14 (IV) ANY HEARING REQUIRED BY THIS SUBSECTION (1)(d) AND THE
15 RELATED PROCEDURES ARE GOVERNED BY ARTICLE 4 OF TITLE 24.

16 **SECTION 9.** In Colorado Revised Statutes, **amend** 11-110-106
17 as follows:

18 **11-110-106. Exemptions.** ~~Nothing in~~ This article 110 ~~shall~~ DOES
19 NOT apply: To departments or agencies of the United States of America;
20 ~~or~~ to any state or municipal government; or to corporations organized
21 under the general banking, savings and loan, or credit union laws of this
22 state, OF OTHER STATES, or of the United States. ~~or to the receipt of money~~
23 ~~by an incorporated telegraph or cable company at any office or agency~~
24 ~~thereof for immediate transmission by telegraph or cable.~~

25 **SECTION 10.** In Colorado Revised Statutes, 11-110-107, **amend**
26 (1)(a) as follows:

27 **11-110-107. Application for license.** (1) Application for a

1 license shall be made in writing, under oath, to the banking board on such
2 form as it may prescribe. The application shall:

3 (a) State the name of the applicant and the address of ~~his or her~~
4 THE APPLICANT'S principal office;

5 **SECTION 11.** In Colorado Revised Statutes, 11-110-109, **amend**
6 (1), (2), and (3) as follows:

7 **11-110-109. Issuance of license.** (1) Upon the filing of an
8 application, the commissioner shall investigate the applicant. The
9 applicant shall pay for the cost of the investigation. If the board finds that
10 the applicant is of good moral character and financially responsible and
11 can comply with this article 110, the board shall approve the application
12 and notify the applicant in writing that ~~its~~ THE approval expires six
13 months after the approval date. Once the approved applicant has notified
14 the board that ~~he or she~~ THE APPLICANT is prepared to commence
15 operations in Colorado, posted the required bond, and paid the license
16 fee, the board shall issue to the applicant a license to engage in the
17 business of money transmission subject to this article 110.

18 (2) ~~No license~~ THE COMMISSIONER shall ~~be issued~~ NOT ISSUE A
19 LICENSE to an applicant, if a natural person, unless ~~he or she~~ THE
20 APPLICANT is over twenty-one years of age; or, if a partnership or
21 syndicate, unless each of the partners is over twenty-one years of age; or,
22 if a joint stock association, common law trust, unincorporated company
23 or association, or corporation, unless each of the officers, directors,
24 trustees, or other managing officials is over twenty-one years of age.

25 (3) If the board denies an application, the board shall, within thirty
26 days ~~thereafter~~ AFTER THE DENIAL, prepare and file in its office a written
27 order of denial, which must contain the board's findings and reasons

1 supporting the denial. ~~and~~; Within ten days after filing the order OF
2 DENIAL, the board shall notify the applicant and send ~~him or her~~ THE
3 APPLICANT a copy of the order. The applicant may request a hearing by
4 the board by submitting a written request to the board within sixty days
5 after receiving notice as specified in section 24-4-104 (9), and, if so
6 requested, the board shall hold a hearing as specified in section 24-4-105.

7 **SECTION 12.** In Colorado Revised Statutes, 11-110-115, **amend**
8 (3) as follows:

9 **11-110-115. Revocation or surrender of license.** (3) A licensee
10 may surrender any license by delivering to the banking board written
11 notice that ~~he or she~~ THE PERSON surrenders the license, but the surrender
12 ~~shall~~ DOES not:

- 13 (a) Affect the licensee's civil or criminal liability for acts
14 committed prior to the surrender; ~~or~~
- 15 (b) Affect the liability on any bond; or
- 16 (c) Entitle the licensee to a return of any part of any license fee.

17 **SECTION 13. Act subject to petition - effective date.** This act
18 takes effect at 12:01 a.m. on the day following the expiration of the
19 ninety-day period after final adjournment of the general assembly; except
20 that, if a referendum petition is filed pursuant to section 1 (3) of article V
21 of the state constitution against this act or an item, section, or part of this
22 act within such period, then the act, item, section, or part will not take
23 effect unless approved by the people at the general election to be held in
24 November 2024 and, in such case, will take effect on the date of the
25 official declaration of the vote thereon by the governor.