

SENATE, No. 1123

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED JANUARY 31, 2022

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

SYNOPSIS

Requires money transmitters to provide training materials to delegates concerning financial abuse and exploitation of elder adults.

CURRENT VERSION OF TEXT

As introduced.



S1123 VITALE

2

1 AN ACT concerning money transmitters and amending and
2 supplementing P.L.1998, c.14.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 2 of P.L.1998, c.14 (C.17:15C-2) is amended to read
8 as follows:

9 2. As used in this act:

10 "Applicant" means a person filing an application for a license
11 under this act.

12 "Authorized delegate" means an entity authorized by the licensee
13 pursuant to the provisions of section 17 of this act to sell or issue
14 payment instruments or engage in the business of transmitting
15 money on behalf of a licensee.

16 "Commissioner" means the Commissioner of Banking and
17 Insurance.

18 "Control" means ownership of, or the power to vote, 25 percent
19 or more of the outstanding voting securities of a licensee or
20 controlling person. For purposes of determining the percentage of a
21 licensee controlled by any person, there shall be aggregated with
22 the person's interest the interest of any other person controlled by
23 that person or by any spouse, parent, or child of that person.

24 "Controlling person" means any person in control of a licensee.

25 "Department" means the Department of Banking and Insurance.

26 "Elder adult" means an individual who is believed to be at least
27 65 years old and a resident of this State.

28 "Executive officer" means the licensee's president, chairman of
29 the executive committee, senior officer responsible for the
30 licensee's business in this State, chief financial officer and any other
31 person who performs similar functions.

32 "Financial abuse" means to take, appropriate, obtain, or retain, or
33 assist in taking, appropriating, obtaining, or retaining, real or
34 personal property of an elder adult by any means, including undue
35 influence, for a wrongful purpose or with intent to defraud the elder
36 adult.

37 "Financial exploitation" means any action which involves the
38 misuse of an elder adult's funds or property.

39 "Foreign money transmitter" means a person who engages, in
40 this State, only in the business of the receipt of money for
41 transmission or transmitting money to locations outside of the
42 United States by any and all means, including but not limited to
43 payment instrument, wire, facsimile, electronic transfer, or
44 otherwise for a fee, commission or other benefit.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

S1123 VITALE

1 "Key shareholder" means any person, or group of persons acting
2 in concert, who is the owner of 25 percent or more of any voting
3 class of an applicant's stock.

4 "Licensee" means a person licensed under this act.

5 "Location" means a place of business at which activities
6 regulated by this act occur.

7 "Material litigation" means any litigation that, according to
8 generally accepted accounting principles, is deemed significant to
9 any applicant's or licensee's financial health and would be required
10 to be referenced in that entity's annual audited financial statements,
11 report to shareholders or similar documents.

12 "Money" means a medium of exchange authorized or adopted by
13 the United States or a foreign government as a part of its currency
14 and that is customarily used and accepted as a medium of exchange
15 in the country of issuance.

16 "Money transmitter" means a person who engages in this State in
17 the business of:

18 (1) the sale or issuance of payment instruments for a fee,
19 commission or other benefit;

20 (2) the receipt of money for transmission or transmitting money
21 within the United States or to locations abroad by any and all
22 means, including but not limited to payment instrument, wire,
23 facsimile, electronic transfer, or otherwise for a fee, commission or
24 other benefit; or

25 (3) the receipt of money for obligors for the purpose of paying
26 obligors' bills, invoices or accounts for a fee, commission or other
27 benefit paid by the obligor.

28 "Outstanding payment instrument" means any payment
29 instrument issued by the licensee which has been sold in the United
30 States directly by the licensee or any payment instrument issued by
31 the licensee which has been sold by an authorized delegate of the
32 licensee in the United States, which has been reported to the
33 licensee as having been sold, and which has not yet been paid by or
34 for the licensee.

35 "Payment instrument" means any check, draft, money order,
36 travelers check or other instrument or written order for the
37 transmission or payment of money, sold or issued to one or more
38 persons, whether or not the instrument is negotiable. The term
39 "payment instrument" does not include any credit card voucher, any
40 letter of credit or any instrument which is redeemable by the issuer
41 in goods or services.

42 "Permissible investments" means:

43 (1) cash;

44 (2) certificates of deposit or other debt obligations of a bank,
45 savings bank, savings and loan association, or credit union, either
46 domestic or foreign;

47 (3) bills of exchange or time drafts drawn on and accepted by a
48 commercial bank, otherwise known as bankers' acceptances, which

S1123 VITALE

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1 are eligible for purchase by member banks of the Federal Reserve
2 System;

3 (4) any investment which is rated in one of the three highest
4 rating categories by a nationally recognized statistical rating
5 organization;

6 (5) investment securities that are obligations of the United
7 States, its agencies or instrumentalities, or obligations that are
8 guaranteed fully as to principal and interest by the United States, or
9 any obligations of any state, municipality or any political
10 subdivision thereof which is rated in one of the three highest rating
11 categories by a nationally recognized statistical rating organization;

12 (6) shares in a money market mutual fund, interest-bearing bills,
13 notes or bonds, debentures or stock traded on any national securities
14 exchange or on a national over-the-counter market, or mutual funds
15 primarily composed of those securities or a fund composed of one
16 or more permissible investments as set forth in this section;

17 (7) demand borrowing agreements made to a corporation or a
18 subsidiary of a corporation whose capital stock is listed on a
19 national exchange;

20 (8) receivables which are due to a licensee from its authorized
21 delegates pursuant to a contract described in section 17 of this act,
22 which are not past due or doubtful of collection; or

23 (9) any other investments or security device which the
24 commissioner may authorize by rule.

25 (cf: P.L.1998, c.14, s.2)

26

27 2. Section 10 of P.L.1998, c.14 (C.17:15C-10) is amended to
28 read as follows:

29 10. a. Each licensee, shall make, keep and preserve the
30 following books, accounts and other records for a period of three
31 years:

32 (1) a record of each payment instrument sold;

33 (2) a general ledger containing all assets, liabilities, capital,
34 income and expense accounts (which general ledger shall be posted
35 at least monthly);

36 (3) settlement sheets received from authorized delegates;

37 (4) bank statements and bank reconciliation records;

38 (5) records of outstanding payment instruments;

39 (6) records of each payment instrument paid within the three-
40 year period;

41 (7) a list of names and addresses of all of the licensee's
42 authorized delegates;

43 (8) a list of all countries to which money is transmitted or from
44 which money is received for transmission;

45 (9) a list of the names and addresses of all clearing banks
46 through which the licensee's money transmission business is
47 conducted; **[and]**

1 (10) such other books and records as the commissioner may
2 require by regulation ; and

3 (11) a list of the dates that the training materials required
4 pursuant to section 3 of P.L. , c. (C.)(pending before the
5 Legislature as this bill) were provided to the licensee's authorized
6 delegates.

7 b. Maintenance of the documents required by this section in a
8 photographic, electronic or other similar form shall constitute
9 compliance with this section.

10 c. Each licensee shall maintain the records it is required to
11 maintain pursuant to 31 C.F.R. s.1010.100 et seq.

12 d. The records of the licensee regarding business regulated
13 under this act shall be maintained at its principal place of business
14 or, with notice to the commissioner, at another location designated
15 by the licensee. If the records are maintained outside this State, the
16 commissioner may require that the licensee reimburse the
17 department for the travel costs incurred in the examination or
18 investigation of those records or may require that the licensee make
19 those records available to the commissioner at the commissioner's
20 office not more than seven business days after demand. The
21 commissioner may further require that those records be
22 accompanied by an individual who will be available to answer
23 questions regarding those records and the business regulated under
24 this act. The commissioner may require the appearance of a
25 specific individual, or request that the licensee designate an
26 individual with knowledge of the records and the business.

27 (cf: P.L.1998, c.14, s.10)

28

29 3. (New section) a. A licensee shall provide to each of its
30 authorized delegates training materials on how to:

31 (1) recognize financial abuse and financial exploitation of an
32 elder adult; and

33 (2) respond appropriately if the delegate suspects that the
34 delegate is being asked to engage in the business of money
35 transmission for a transaction in which an elder adult is the victim
36 of financial abuse or financial exploitation.

37 b. A licensee shall provide the training materials required
38 pursuant to subsection a. of this section to each newly appointed
39 delegate within one month after the delegate's appointment.

40 c. This section shall not apply to licensees who:

41 (1) exclusively offer their services via an internet web site; or

42 (2) are engaged solely in selling or issuing stored value devices,
43 traveler's checks, or money orders, or providing bill payer services,
44 and are not engaged in any other business regulated under the "New
45 Jersey Money Transmitters Act."

46

47 4. This act shall take effect immediately.

1 STATEMENT

2

3 This bill revises the "New Jersey Money Transmitters Act" to
4 require money transmitters to provide to their authorized delegates
5 training materials on how to:

6 (1) recognize financial abuse and financial exploitation of an
7 elder adult; and

8 (2) respond appropriately if the delegate suspects that the
9 delegate is being asked to engage in the business of money
10 transmission for a transaction in which an elder adult is the victim
11 of financial abuse or exploitation.

12 Under the bill, the money transmitter is required to provide the
13 training materials to each newly appointed delegate within one
14 month after the delegate's appointment and to keep a record of the
15 date for each delegate.