SENATE, No. 2147

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MARCH 16, 2020

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.

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

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

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

2. As used in this act:

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

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

"Commissioner" means the Commissioner of Banking and Insurance.

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

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

"Department" means the Department of Banking and Insurance.

<u>“Elder adult” means an individual who is believed to be at least 65 years old and a resident of this State.</u>

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

<u>“Financial abuse” means to take, appropriate, obtain, or retain, or assist in taking, appropriating, obtaining, or retaining, real or personal property of an elder adult by any means, including undue influence, for a wrongful purpose or with intent to defraud the elder adult.</u>

<u>“Financial exploitation” means any action which involves the misuse of an elder adult’s funds or property.</u>

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

"Key shareholder" means any person, or group of persons acting

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 <u>thus</u> is new matter.

in concert, who is the owner of 25 percent or more of any voting class of an applicant's stock.

"Licensee" means a person licensed under this act.

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

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

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

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

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

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

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

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

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

"Permissible investments" means:

(1) cash;

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

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

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

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

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

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

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

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

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

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

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

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

(1) a record of each payment instrument sold;

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

(3) settlement sheets received from authorized delegates;

(4) bank statements and bank reconciliation records;

(5) records of outstanding payment instruments;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

c. This section shall not apply to licensees who:

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

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

4. This act shall take effect immediately.

STATEMENT

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

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

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

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