

June 5, 2013

2013 Legislative Amendments to the Indiana Money Transmitter Act (the “Act”)

Effective July 1, 2013 (except as otherwise indicated)

Questions, Answers and Administrative Interpretations: This document contains a Q & A as to new provisions to the Act (IC 28-8-4, et seq.). Careful review of the entire Act is recommended. The new provisions of the Act can be found in House Enrolled Act (“HEA 1081”) beginning at Section 39 (page 65) at the following link:

<http://www.in.gov/legislative/bills/2013/PDF/HE/HE1081.1.pdf>.

1. Do money transmitters who are not depository institutions and are located out-of-state have to obtain a license as an Indiana money transmitter?

Answer: Yes, effective January 1, 2014, all money transmitters (see IC 28-8-4-13) with an out-of-state location that do consumer purpose money transmission business with Indiana residents are subject to the Indiana Money Transmitter Act and its licensing requirements (See IC 28-8-4). A physical presence such as an office in Indiana and/or the use of Indiana agents or authorized delegates is no longer a prerequisite for licensing.

2. What about a money transmitter who has previously received a staff interpretation that a license is not required to do business with Indiana residents unless the money transmitter has an office or physical location in Indiana?

Answer: The Department is aware that a number of unlicensed organizations engage in the business of money transmissions with residents of Indiana, but do not have an office or physical "bricks and mortar" location in Indiana. Some organizations have received prior interpretations from the Department and others may have relied on letters or other published interpretations. Due to statutory changes, the Department will require such organizations to obtain a license from the Department, subject to IC-28-8-4. Such organizations must obtain licensing by January 1, 2014.

3. How do money transmitters who are not depository issuers apply and renew licenses? (effective November 1, 2013)

Answer: Effective November 1, 2013, all money transmitters must apply for new licenses and renew existing licenses through the Nationwide Mortgage Licensing and Registry System (NMLRS) (See IC 28-8-4-20.5). We expect updates to become available on using NMLRS for licensing and renewals of money transmitter licenses for Indiana by licensing and renewals money transmitter licenses for Indiana:

<http://mortgage.nationwidelicensingsystem.org/news/Pages/ExpandedUse.aspx>

4. May a money transmitter still substitute a security device for a surety bond?

Answer: No, as of July 1, 2014 only surety bonds will be accepted (See IC 28-8-4-21(b)).

5. When are Money Transmitter license renewals due?

Answer: A Money Transmitter license issued by the Department shall have a term expiring December 31 of the year the license was issued. Therefore, all renewals will be due on December 31 of each year. As previously stated, all renewals and renewal fees will be coordinated through the NMLRS (See IC 28-8-4-35(d)). Although existing Indiana Money Transmitter licensees renewed in March of 2013, they will have to renew again in the period from November 1, 2013-December 31, 2013, thru NMLRS. This will replace the prior statutory renewal date of March 31, 2014.

6. When are Money Transmitter licensees required to upload the audited year-end financial statements to the NMLRS?

Answer: Due to the change in the renewal date (See IC 28-8-4-38); the annual renewal will be due on December 31 of each year. Money Transmitter licensees will have until April 30 of the subsequent year to upload to the NMLRS the calendar or fiscal year-end audited financial statements. Current year audited financial statements not received within four calendar months of the licensed Money Transmitter's calendar or fiscal year-end will be assessed daily delinquency charges as outline in IC 28-8-4-41.

Below are examples of audited financial due dates:

- a. Calendar year-end December 31, 2013, audited financials due no later than April 30, 2014.
- b. Fiscal year-end February 28, 2014, audited financials due no later than June 30, 2014.
- c. Fiscal year-end March 31, 2014, audited financials due no later than July 31, 2014.

7. For clarification purposes what is the net worth requirement for a Money Transmitter licensee?

Answer: Audited financial statements must confirm the Money Transmitter has a net worth of at least \$600,000 (See IC 28-8-4-24(12)). Net worth must be "maintained" at a consistent level equal to or exceeding \$600,000 at all times.

8. Have there been any changes made to the authorized delegate/agent provisions of the Act?

Answer: Yes, a licensee must give the Department notice of the resignation, discharge, or termination of an authorized delegate whom allegations were made that accused the authorized delegate of:

(1) violating this chapter or other laws, regulations, rules, or industry standards of conduct applicable to money transmission; or

(2) fraud, dishonesty, theft, or the wrongful taking of property. The licensee shall provide the department the notice required under this subsection not later than thirty (30) days after the effective date of the resignation, discharge, or termination (See IC 28-8-4-49-(c)). Failure to comply may subject the licensee to penalties as provided under IC 28-8-4-53