

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 186

Introduced by Lindstrom, 18.

Read first time January 10, 2017

Committee: Banking, Commerce and Insurance

- 1 A BILL FOR AN ACT relating to the Nebraska Money Transmitters Act; to
- 2 amend section 8-2727, Revised Statutes Cumulative Supplement, 2016;
- 3 to change provisions relating to licensee surety bonds; and to
- 4 repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 8-2727, Revised Statutes Cumulative Supplement,
2 2016, is amended to read:

3 8-2727 (1)(a) Except as provided in subsection (2) of this section,
4 an ~~Each~~ applicant shall submit, with the application, a surety bond
5 issued by a bonding company or insurance company authorized to do
6 business in this state and acceptable to the director in the principal
7 sum of one hundred thousand dollars ~~and in an additional principal sum of~~
8 ~~five thousand dollars for each location, in excess of one, at which the~~
9 ~~applicant proposes to sell and issue payment instruments or engage in~~
10 ~~money transmission in this state, up to a maximum of two hundred fifty~~
11 ~~thousand dollars.~~ The director may increase the amount of the bond to a
12 maximum of two hundred fifty thousand dollars for good cause.

13 (b) The bond shall be in a form satisfactory to the director and
14 shall run to the state for the benefit of any claimants against the
15 licensee to secure the faithful performance of the obligations of the
16 licensee with respect to the receipt, handling, transmission, and payment
17 of money in connection with money transmission. In the case of a bond,
18 the aggregate liability of the surety shall not exceed the principal sum
19 of the bond. Any claimant against the licensee may bring suit directly on
20 the bond or the director may bring suit on behalf of any claimant, either
21 in one action or in successive actions.

22 (2) Upon filing of the report required by section 8-2734 and the
23 information required by subdivision (2)(b) of such section, a licensee
24 shall maintain or increase its surety bond to reflect the total dollar
25 amount of money transmitter transactions by the licensee in this state in
26 the most recent four calendar quarters for which data is available before
27 the date of the filing of the renewal application in accordance with the
28 following table. A licensee may decrease its surety bond in accordance
29 with the following table if the surety bond required is less than the
30 amount of the surety bond on file with the department:

31 Dollar Amount of Money Transmitter Transactions Surety Bond Required

| | | |
|---|---|---------------------|
| 1 | <u>\$0.00 to \$2,000,000.00</u> | <u>\$100,000.00</u> |
| 2 | <u>\$2,000,000.01 to \$4,000,000.00</u> | <u>\$150,000.00</u> |
| 3 | <u>\$4,000,000.01 to \$6,000,000.00</u> | <u>\$200,000.00</u> |
| 4 | <u>Over \$6,000,000.00</u> | <u>\$250,000.00</u> |

5 (3) If the department determines that a licensee does not maintain a
6 surety bond in the amount required by subsection (2) of this section, the
7 department shall give written notification to the licensee requiring it
8 to increase the surety bond within thirty days to the amount required by
9 such subsection.

10 (4) (b) The director may at any time require the filing of a new or
11 supplemental bond in the form as provided in subsection (1) subdivision
12 (a) of this section ~~subsection~~ if he or she determines that the bond
13 filed under this section is exhausted or is inadequate for any reason,
14 including, but not limited to, the financial condition of a licensee or
15 an applicant for a license or violations of the Nebraska Money
16 Transmitters Act, any rule and ~~,~~ regulation~~,~~ or order thereunder, or any
17 state or federal law applicable to a licensee or an applicant for a
18 license. The new or supplemental bond shall not exceed five hundred
19 thousand dollars.

20 (5)(a) (2) In lieu of the corporate surety bond or bonds required by
21 ~~subsection (1) of this section or of any portion of the principal thereof~~
22 ~~as required by such subsection,~~ the applicant or licensee may deposit,
23 with the director or with such banks or trust companies located in this
24 state or with any federal reserve bank as the applicant or licensee may
25 designate and the director may approve, interest-bearing stocks and
26 bonds, notes, debentures or other obligations of the United States or any
27 agency or instrumentality thereof, or guaranteed by the United States, or
28 of this state, or of a city, county, village, school district, or
29 instrumentality of this state, or guaranteed by this state, to an
30 aggregate amount, based upon principal amount or market value, whichever
31 is lower, of not less than the amount of the required corporate surety

1 bond or portion thereof. The securities shall be deposited and held to
2 secure the same obligations as would the surety bond.

3 (b) The licensee shall have the right, with the approval of the
4 director, to substitute other securities for those deposited and shall be
5 required to do so on written order of the director made for good cause
6 shown. The licensee shall pay the fees prescribed in section 8-602 for
7 pledging and substitution of securities. So long as the licensee so
8 depositing shall continue solvent and is not in violation of the Nebraska
9 Money Transmitters Act, such licensee shall be permitted to receive the
10 interest or dividends on such deposit.

11 (c) The safekeeping of such securities and all other expenses
12 incidental to the pledging of such securities shall be paid by the
13 licensee. All such securities shall be subject to sale and transfer and
14 to the disposal of the proceeds by the director only on the order of a
15 court of competent jurisdiction.

16 (6) ~~(3)~~ The surety bond shall remain in effect until cancellation,
17 which may occur only after thirty days' written notice to the director.
18 Cancellation shall not affect any liability incurred or accrued during
19 the period the surety bond was in effect.

20 (7) ~~(4)~~ The surety bond shall remain in place for at least five
21 years after the licensee ceases money transmission in this state, except
22 that the director may permit the surety bond to be reduced or eliminated
23 before that time to the extent that the amount of the licensee's payment
24 instruments outstanding in this state are reduced. The director may also
25 permit a licensee to substitute a letter of credit or such other form of
26 security acceptable to the director for the surety bond in place at the
27 time the licensee ceases money transmission in the state.

28 Sec. 2. Original section 8-2727, Revised Statutes Cumulative
29 Supplement, 2016, is repealed.