

# LEGISLATIVE BILL 186

Approved by the Governor March 29, 2017

Introduced by Lindstrom, 18.

A BILL FOR AN ACT relating to the Nebraska Money Transmitters Act; to amend section 8-2727, Revised Statutes Cumulative Supplement, 2016; to change provisions relating to licensee surety bonds; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

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

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

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

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

<u>Dollar Amount of Money Transmitter Transactions</u>	<u>Surety Bond Required</u>
<u>\$0.00 to \$2,000,000.00</u>	<u>\$100,000.00</u>
<u>\$2,000,000.01 to \$4,000,000.00</u>	<u>\$150,000.00</u>
<u>\$4,000,000.01 to \$6,000,000.00</u>	<u>\$200,000.00</u>
<u>Over \$6,000,000.00</u>	<u>\$250,000.00</u>

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

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

(5)(a) ~~(2)~~ In lieu of the corporate surety bond or bonds required by subsection (1) of this section or of any portion of the principal thereof ~~as required by such subsection,~~ the applicant or licensee may deposit, with the director or with such banks or trust companies located in this state or with any federal reserve bank as the applicant or licensee may designate and the director may approve, interest-bearing stocks and bonds, notes, debentures or other obligations of the United States or any agency or instrumentality thereof, or guaranteed by the United States, or of this state, or of a city, county, village, school district, or instrumentality of this state, or guaranteed by this state, to an aggregate amount, based upon principal amount or market value, whichever is lower, of not less than the amount of the required corporate surety bond or portion thereof. The securities shall be deposited and held to secure the same obligations as would the surety bond.

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

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

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

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

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