

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 5031

(SENATE AUTHORS: RASMUSSEN)

DATE
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Introduction and first reading
Referred to Commerce and Consumer Protection

OFFICIAL STATUS

1.1 A bill for an act

1.2 relating to financial institutions; modifying provisions governing money

1.3 transmitters; amending Minnesota Statutes 2023 Supplement, sections 53B.28,

1.4 subdivisions 18, 25; 53B.29; repealing Minnesota Statutes 2023 Supplement,

1.5 section 53B.58.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2023 Supplement, section 53B.28, subdivision 18, is amended

1.8 to read:

1.9 Subd. 18. **Money transmission.** (a) "Money transmission" means:

1.10 (1) selling or issuing payment instruments to a person located in this state;

1.11 (2) selling or issuing stored value to a person located in this state; or

1.12 (3) receiving money for transmission from a person located in this state.

1.13 (b) ~~Money includes payroll processing services.~~ Money does not include the provision

1.14 solely of online or telecommunications services or network access.

1.15 Sec. 2. Minnesota Statutes 2023 Supplement, section 53B.28, subdivision 25, is amended

1.16 to read:

1.17 Subd. 25. **Payroll processing services.** "Payroll processing services" means ~~receiving~~

1.18 ~~money for transmission pursuant to a contract with a person to deliver~~ delivering wages or

1.19 salaries, ~~make~~ making payment of payroll taxes to state and federal agencies, ~~make~~ making

1.20 payments relating to employee benefit plans, ~~or make~~ making distributions of other authorized

1.21 deductions from wages or salaries, or transmitting other funds on behalf of an employer in

1.22 connection with transactions related to employees. The term payroll processing services

~~does not include~~ includes an employer performing payroll processing services on the employer's own behalf or on behalf of the employer's affiliate, ~~or a~~ and professional employment organization ~~subject to regulation under other applicable state law~~ organizations.

Sec. 3. Minnesota Statutes 2023 Supplement, section 53B.29, is amended to read:

53B.29 EXEMPTIONS.

This chapter does not apply to:

(1) an operator of a payment system, to the extent the operator of a payment system provides processing, clearing, or settlement services between or among persons exempted by this section or licensees in connection with wire transfers, credit card transactions, debit card transactions, stored-value transactions, automated clearing house transfers, or similar funds transfers;

(2) a person appointed as an agent of a payee to collect and process a payment from a payor to the payee for goods or services, other than money transmission itself, provided to the payor by the payee, provided that:

(i) there exists a written agreement between the payee and the agent directing the agent to collect and process payments from payors on the payee's behalf;

(ii) the payee holds the agent out to the public as accepting payments for goods or services on the payee's behalf; and

(iii) payment for the goods and services is treated as received by the payee upon receipt by the agent so that the payor's obligation is extinguished and there is no risk of loss to the payor if the agent fails to remit the funds to the payee;

(3) a person that acts as an intermediary by processing payments between an entity that has directly incurred an outstanding money transmission obligation to a sender, and the sender's designated recipient, provided that the entity:

(i) is properly licensed or exempt from licensing requirements under this chapter;

(ii) provides a receipt, electronic record, or other written confirmation to the sender identifying the entity as the provider of money transmission in the transaction; and

(iii) bears sole responsibility to satisfy the outstanding money transmission obligation to the sender, including the obligation to make the sender whole in connection with any failure to transmit the funds to the sender's designated recipient;

3.1 (4) the United States; a department, agency, or instrumentality of the United States; or
3.2 an agent of the United States;

3.3 (5) money transmission by the United States Postal Service or by an agent of the United
3.4 States Postal Service;

3.5 (6) a state; county; city; any other governmental agency, governmental subdivision, or
3.6 instrumentality of a state; or the state's agent;

3.7 (7) a federally insured depository financial institution; bank holding company; office of
3.8 an international banking corporation; foreign bank that establishes a federal branch pursuant
3.9 to the International Bank Act, United States Code, title 12, section 3102, as amended or
3.10 recodified from time to time; corporation organized pursuant to the Bank Service Corporation
3.11 Act, United States Code, title 12, sections 1861 to 1867, as amended or recodified from
3.12 time to time; or corporation organized under the Edge Act, United States Code, title 12,
3.13 sections 611 to 633, as amended or recodified from time to time;

3.14 (8) electronic funds transfer of governmental benefits for a federal, state, county, or
3.15 governmental agency by a contractor on behalf of the United States or a department, agency,
3.16 or instrumentality thereof, or on behalf of a state or governmental subdivision, agency, or
3.17 instrumentality thereof;

3.18 (9) a board of trade designated as a contract market under the federal Commodity
3.19 Exchange Act, United States Code, title 7, sections 1 to 25, as amended or recodified from
3.20 time to time; or a person that in the ordinary course of business provides clearance and
3.21 settlement services for a board of trade to the extent of its operation as or for a board;

3.22 (10) a registered futures commission merchant under the federal commodities laws, to
3.23 the extent of the registered futures commission merchant's operation as a merchant;

3.24 (11) a person registered as a securities broker-dealer under federal or state securities
3.25 laws, to the extent of the person's operation as a securities broker-dealer;

3.26 (12) an individual employed by a licensee, authorized delegate, or any person exempted
3.27 from the licensing requirements under this chapter when acting within the scope of
3.28 employment and under the supervision of the licensee, authorized delegate, or exempted
3.29 person as an employee and not as an independent contractor;

3.30 (13) a person expressly appointed as a third-party service provider to or agent of an
3.31 entity exempt under clause (7), solely to the extent that:

(i) the service provider or agent is engaging in money transmission on behalf of and pursuant to a written agreement with the exempt entity that sets forth the specific functions that the service provider or agent is to perform; and

(ii) the exempt entity assumes all risk of loss and all legal responsibility for satisfying the outstanding money transmission obligations owed to purchasers and holders of the outstanding money transmission obligations upon receipt of the purchaser's or holder's money or monetary value by the service provider or agent; ~~or~~

(14) payroll processing services providers; or

~~(14)~~ (15) a person exempt by regulation or order if the commissioner finds that (i) the exemption is in the public interest, and (ii) the regulation of the person is not necessary for the purposes of this chapter.

Sec. 4. **REPEALER.**

Minnesota Statutes 2023 Supplement, section 53B.58, is repealed.

53B.58 PAYROLL PROCESSING SERVICES; DISCLOSURES.

(a) A licensee that provides payroll processing services must:

(1) issue reports to clients detailing client payroll obligations in advance of the payroll funds being deducted from an account; and

(2) make available worker pay stubs or an equivalent statement to workers.

(b) Paragraph (a) does not apply to a licensee providing payroll processing services if the licensee's client designates the intended recipients to the licensee and is responsible for providing the disclosures required by paragraph (a), clause (2).