**South Carolina General Assembly**

119th Session, 2011-2012

**H. 4972**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Patrick, Tallon, Erickson, Herbkersman and Pope

Document Path: l:\council\bills\ggs\22331zw12.docx

Introduced in the House on March 8, 2012

Currently residing in the House Committee on **Judiciary**

Summary: Money Services Oversight and Illicit Finance Abatement Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/8/2012 House Introduced and read first time ([House Journal‑page 18](file:///h:\hj%20archive\2012\03-08-12.docx))

3/8/2012 House Referred to Committee on **Judiciary** ([House Journal‑page 18](file:///h:\hj%20archive\2012\03-08-12.docx))

**VERSIONS OF THIS BILL**

[3/8/2012](file:///p:\pprever\2011-12\4972_20120308.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 36 TO TITLE 1 SO AS TO ENACT THE “SOUTH CAROLINA MONEY SERVICES OVERSIGHT AND ILLICIT FINANCE ABATEMENT ACT” TO PROVIDE REGULATION AND OVERSIGHT OF THE MONEY SERVICES BUSINESSES MOST COMMONLY USED BY ORGANIZED CRIMINAL ENTERPRISES TO LAUNDER THE MONETARY PROCEEDS OF ILLEGAL ACTIVITIES, TO PROVIDE DEFINITIONS, TO ESTABLISH THE SOUTH CAROLINA DEPARTMENT OF MONEY SERVICES AND FINANCIAL TECHNOLOGIES, AND TO PROVIDE PENALTIES; BY ADDING ARTICLE 14 TO CHAPTER 7, TITLE 14 SO AS TO AUTHORIZE CIRCUIT SOLICITORS TO APPLY FOR AN ORDER CONVENING A CIRCUIT‑WIDE SPECIAL INVESTIGATIVE GRAND JURY UNDER CERTAIN CIRCUMSTANCES, TO PROVIDE FOR THE EMPANELMENT OF THE SPECIAL INVESTIGATIVE GRAND JURY, AND TO PROVIDE THE POWERS OF THE CIRCUIT SOLICITOR WHEN THE SPECIAL INVESTIGATIVE GRAND JURY IS CONVENED; AND TO AMEND SECTION 14‑7‑1680, AS AMENDED, RELATING TO THE ISSUANCE OF SUBPOENAS AND SUBPOENAS DUCES TECUM, SO AS TO REMOVE CERTAIN REFERENCES TO THE ATTORNEY GENERAL AND THE STATE GRAND JURY AND INSERT REFERENCES TO THE SOLICITOR.

Whereas, the General Assembly finds that unregulated money services businesses in South Carolina represent a significant threat to the security of South Carolina’s institutions and citizens. It is estimated that these businesses are potentially transmitting billions of dollars out of South Carolina each year and a significant portion is linked to organized crime and other illegal activity in the State. The technologies utilized by money services businesses to transfer value is highly sophisticated and changes rapidly, which impedes the best efforts of law enforcement and government to keep abreast of industry trends and capabilities and their potential impact on the welfare of the general public and the sanctity of our financial system; and

Whereas, South Carolina is one of only two states in the nation that does not regulate money services businesses or provide investigative tools necessary to combat their illicit use by criminal entities and terrorists. As a result, South Carolina has become a haven for illicit money transfers and transactions, which has a direct correlation to the state’s violent crime rate and the existence of criminal organizations in the State; and

Whereas, criminals operate to earn money from their illegal activities, this act will prevent criminals in South Carolina from using the state’s financial infrastructure to enable their criminal enterprises and it will provide law enforcement with a greater ability to seize more of the criminal’s ill gotten gains and tainted assets. The ability to seize these traceable assets, wherever they are located, will help South Carolina dramatically curb criminal activity in the State; and

Whereas, the General Assembly recognizes the limited resources of state and local law enforcement agencies and the solicitors in countering the illicit use of money services businesses and its potential to corrupt and undermine the stability of other financial institutions in South Carolina and the safety of our citizens. As such, it is the intent of the General Assembly to protect South Carolina citizens, businesses, and institutions by creating a department to regulate, oversee, and investigate money services businesses in South Carolina and to provide new tools to law enforcement and solicitors to combat the threat these unregulated institutions represent. These actions will bring the State in line with the rest of the nation and dramatically aid law enforcement in its responsibilities to the citizens of the State. In addition to its regulatory, oversight, and investigative responsibilities, this department will enhance and supplement the efforts of local law enforcement, solicitors and the Attorney General by providing greater flexibility to respond to criminal activity associated with money services businesses. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 1 of the 1976 Code is amended by adding:

“CHAPTER 36

South Carolina Money Services Oversight

and Illicit Finance Abatement Act

Section 1‑36‑100. This chapter may be cited as the ‘South Carolina Money Services Oversight and Illicit Finance Abatement Act’.

Section 1‑36‑105. As used in this chapter:

(1) ‘Affiliated party’ means a director, officer, responsible person, employee, or foreign affiliate of a money services business, or a person who has a controlling interest in a money services business.

(2) ‘Applicant’ means a person that files an application for a license under this chapter.

(3) ‘Authorized agent’ means a person designated by a money services business licensed pursuant to this chapter to act on behalf of the licensee at locations in this State pursuant to a written contract with the licensee, and also includes entities referred to as delegates or vendors.

(4) ‘Bank Secrecy Act’ means the Bank Secrecy Act, 31 U.S.C. Section 5311 et seq., and its implementing regulations set forth in 31 C.F.R. Part 103.

(5) ‘Beneficial interest’ means:

(a) the interest of a person as a beneficiary under a trust arrangement pursuant to which a trustee holds legal or record title to real property for the benefit of the person; or

(b) the interest of a person under another form of express fiduciary arrangement pursuant to which another person holds legal or record title to real property for the benefit of the person. Beneficial interest does not include the interest of a stockholder in a corporation or the interest of a partner in either a general partnership or limited partnership. A beneficial interest must be deemed to be located where the real property owned by the trustee is located.

(6) ‘Branch office’ means the physical location, other than the principal place of business, of a money services business operated by a licensee pursuant to this chapter.

(7) ‘Commission’ means the Money Services and Financial Technologies Regulatory Commission of South Carolina.

(8) ‘Commissioner’ means the Money Services and Financial Technologies Commissioner of South Carolina or a person designated by the commissioner and acting under the commissioner’s direction and authority.

(9) ‘Compliance officer’ means the individual in charge of overseeing, managing, and ensuring that a money services business is in compliance with all state and federal laws and rules relating to money services businesses, as applicable, including all money laundering laws and rules.

(10) ‘Conducts’ includes initiating, concluding, or participating in initiating or concluding a transaction.

(11) ‘Control’ means ownership of fifteen percent or more of a licensee, controlling person, or applicant, or the power to vote fifteen percent or more of the outstanding voting securities of a licensee, controlling person, or applicant, and includes an individual whose ownership is through one or more legal entities. For the purpose of determining the percentage controlled by one person, that person’s interest must be aggregated with the interest of any other person controlled by that person or an officer, partner, authorized agent, or delegate of that person, or by a spouse, parent, or child of that person.

(12) ‘Controlling person’ means a person directly or indirectly in control of a licensee or applicant.

(13) ‘Criminal syndicate’ means any combination of persons or enterprises engaging, or having the purpose of engaging, on a continuing basis in conduct that violates one or more provisions of a felony statute of a United States jurisdiction.

(14) ‘Currency’ means precious metals and gems, commodities that may be bartered as value between parties, and the coin and paper money of the United States or another country that is designated as legal tender and circulates and is customarily used and accepted as a medium of exchange in the country of issuance. Currency includes United States silver certificates, United States notes, and Federal Reserve notes. Currency also includes official foreign bank notes that are customarily used and accepted as a medium of exchange in a foreign country.

(15) ‘Currency exchange’ means exchanging the currency of one government for the currency of another government.

(16) ‘Currency exchange license’ means a license issued pursuant to this chapter.

(17) ‘Department’ means the South Carolina Department of

Money Services and Financial Technologies.

(18) ‘Electronic instrument’ means a form of electronic payment, including a card or other tangible object for the transmission, transfer, payment, or exchange of money or monetary value, including a stored value card or device that contains a microprocessor or electronic chip, magnetic strip, or other means for storing information or that provides access to information.

(19) ‘Engage in the business’ means conducting activities regulated under this chapter for compensation or in the expectation of compensation. For purposes of this paragraph, ‘compensation’ means a fee, commission, or other benefit.

(20) ‘Enterprise’ means a person, sole proprietorship, partnership, corporation, business trust, union chartered under the laws of this State, or other legal entity, or an uncharted union, association, or group of individuals associated in fact although not a legal entity, or a criminal gang, and it includes illicit as well as licit enterprises and governmental as well as other entities.

(21) ‘Executive officer’ means a president, a presiding officer of the executive committee, a treasurer or chief financial officer, or another individual who performs similar functions.

(22) ‘Financial audit report’ means a report prepared in connection with a financial audit that is conducted in accordance with generally accepted auditing standards prescribed by the American Institute of Certified Public Accountants by a certified public accountant licensed to do business in the United States and includes:

(a) financial statements, including notes related to the financial statements and required supplementary information, prepared in conformity with accounting principles generally accepted in the United States. The notes, at a minimum, must include detailed disclosures regarding receivables that are greater than ninety days, if the total amount of the receivables represents more than two percent of the licensee’s total assets; and

(b) an expression of opinion regarding whether the financial statements are presented in conformity with accounting principles generally accepted in the United States, or an assertion to the effect that such an opinion cannot be expressed and the reasons.

(23) ‘Financial transaction’ means a transaction involving the movement of funds by wire or other means, or involving one or more monetary instruments that in any way or degree affects commerce, or a transaction involving the transfer of title to a real property, vehicle, vessel, or aircraft, or a transaction involving the use of a money services business that is engaged in, or the activities of which affect, commerce in any way or degree.

(24) ‘Foreign affiliate’ means a person located outside this State who has been designated by a licensee to make payments on behalf of the licensee to persons who reside outside this State. The term also includes a person located outside of this State for whom the licensee has been designated to make payments in this State.

(25) ‘Knowing’ means that a person knew; or, with respect to a transaction or transportation involving more than ten thousand dollars, or three thousand dollars for money services businesses, in United States currency or foreign equivalent, should have known after reasonable inquiry, unless the person has a duty to file a federal currency transaction report, IRS Form 8300, or a like report under state law and has complied with that reporting requirement in accordance with law.

(26) ‘Knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity’ means that the person knew the property involved in the transaction represented proceeds from some form, though not necessarily which form, of activity that constitutes a felony under state or federal law, regardless of whether the activity constitutes a racketeering activity.

(27) ‘License holder’ means a person who holds a money services license.

(28) ‘Location’ means a branch office, mobile location, or location of a licensee or an authorized agent whose business activity is regulated under this chapter.

(29) ‘Material litigation’ means litigation that, according to generally accepted accounting principles, is considered significant to an applicant’s or license holder’s financial health and would be required to be referenced in that entity’s audited financial statements, report to shareholders, or similar documents.

(30) ‘Material support’ includes money, financial securities, financial services, or anything of value, lodging, sustenance, training, safe‑houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, disguises and other physical assets, equipment, or assets that enable the execution of a felony.

(31) ‘Money’ or ‘monetary value’ means currency or a claim that can be converted into currency through a financial institution, electronic payments network, or other formal or informal payment system, or other medium of exchange.

(32) ‘Monetary instruments’ means precious metals and gems, commodities that may be bartered as value between parties, coin or currency of the United States or of another country, travelers’ checks, personal checks, bank checks, money orders, investment securities in bearer form, or otherwise in a form that title passes upon delivery, and negotiable instruments in bearer form, or otherwise in a form that title passes upon delivery.

(33) ‘Money services’ means money transmission or currency exchange.

(34) ‘Money transmission’ means the receipt of money, monetary value, or payment instruments by any means, for the purpose of transmitting the same by any means within this country, or to or from this country, or in exchange for a promise to make the money, monetary value, or payment instruments available at a later time or in a different location. The term incorporates both formal and informal transfer systems, whether registered or not. The term also includes, but is not limited to:

(a) selling or issuing stored value or payment instruments, including checks, money orders, prepaid credit and debit cards, prepaid gift cards, and traveler’s checks;

(b) receiving money or monetary value for transmission, including by payment instrument, wire, facsimile, internet, electronic transfer, ACH debit, or through the use of a financial intermediary, the Federal Reserve System, or another funds transfer network;

(c) providing third‑party bill paying services;

(d) receiving currency or an instrument payable in currency to physically transport the currency or its equivalent from one location to another by motor vehicle, other means of transportation, through the use of the mail, a shipping courier, or other delivery service;

(e) utilizing Internet-based services to transfer monetary value, and mobile or cellular phone banking and transfer services;

(f) trade-based commodity transfers; or

(g) operating equipment, including automated teller type systems that do any of the above.

(35) ‘Money transmission business’ means a person qualified to do business in this State who receives currency, monetary value, or payment instruments for the purpose of transmitting the money by any means that facilitate the transfer within this country, or to or from this country, or in exchange for a promise to make the money, monetary value, or payment instruments available at a later time or in a different location. The term does not include:

(a) a federally insured financial institution organized under the laws of this State, another state, or the United States; or

(b) a title insurance company or title insurance agent.

(36) ‘Money transmission license’ means a license issued pursuant to this chapter.

(37) ‘Net worth’ means assets minus liabilities, determined in accordance with United States generally accepted accounting principles.

(38) ‘Officer’ means an individual, other than a director, who participates in, or has authority to participate in, the major policymaking functions of a money services business, regardless of whether the individual has an official title or receives a salary or other compensation.

(39) ‘Outstanding money transmission’ means a money transmission to a designated recipient or a refund to a sender that has not been completed.

(40) ‘Outstanding payment instrument’ means an unpaid payment instrument whose sale has been reported to a licensee.

(41) ‘Pattern of racketeering activity’ means engaging in at least two incidents of racketeering activity, one which occurred after the effective date of this act and the last which occurred within ten years, excluding a period of imprisonment, after a prior incident of racketeering activity; or one or more acts of domestic terrorism as defined herein, or a criminal intent, criminal solicitation, or criminal conspiracy related to racketeering.

(42) ‘Payment instrument’ means a written or electronic equivalent of a check, draft, money order, traveler’s check, or other written or electronic instrument, service, or device for the transmission or payment of money or monetary value, sold or issued to one or more persons, regardless of whether negotiable.

(43) ‘Person’ means an individual or legal entity, but does not include a public agency or instrumentality of a public agency.

(44) ‘Principal’ means an:

(a) owner of a sole proprietorship; or

(b) executive officer, director, general partner, trustee, or manager of a legal entity other than a sole proprietorship.

(45) ‘Racketeering activity’ means to commit, to attempt to commit, conspire to commit, or to solicit, coerce, or intimidate another person to commit or attempt to commit a crime that is chargeable or indictable under the laws of this State or under the laws of another jurisdiction, including conduct defined as ‘racketeering activity’ under 18 U.S.C. Section 1961, which is punishable by imprisonment for more than a year, regardless of where the incident occurs as long as there is a nexus to this State. For purposes of this chapter crimes, definitions, and remedies identified under 18 U.S.C. Section 1956‑1962 are considered to be incorporated.

(46) ‘Record’ means information that:

(a) is inscribed on a tangible medium or stored in an electronic or other medium and retrievable in perceivable form; and

(b) includes but is not limited to, a book, paper, document, writing, drawing, graph, chart, photograph, video recording, audio recording, phone record or data, magnetic tape, banking record or data, wire transfer record or data, credit card record or data, Internet records or Internet payment system transaction records or data, computer data or printout, global positioning system records or data, other data compilation from which information can be translated into usable form, or other tangible item including digital data and information regardless of what medium it resides.

(47) ‘Responsible person’ means an individual who has direct control over or significant management policy and decision‑making authority with respect to a license holder’s ongoing, daily money services operations in this State.

(48) ‘Stored value’ means money or monetary value represented in electronic format, whether or not specially encrypted, that is capable of being prefunded and for which value is reduced on each use, and stored, or capable of storage, on electronic media in such a way as to be retrievable and transferred electronically. ‘Stored value’ does not include an electronic record that is:

(a) loaded with airline, hotel, or rental car points or miles; or

(b) not sold to the public but distributed as a reward or charitable donation.

(49) ‘Structure’ or ‘Structuring’ means that a person, acting alone, or in conjunction with, or on behalf of, other persons, conducts or attempts to conduct one or more transactions in currency, in any amount, at one or more financial institutions or money services businesses, on one or more days, in any manner, for the purpose of evading currency transaction reporting requirements provided by state or federal law. ‘Structure’ or ‘structuring’ also includes, but is not limited to, the breaking down of a single sum of currency exceeding ten thousand dollars, or three thousand dollars in the case of money services businesses, into smaller sums, including sums at or below these amounts, or the conduct of a transaction, or series of currency transactions, at or below these amounts. Moreover, the transaction or transactions need not exceed the ten thousand dollar or three thousand dollar reporting thresholds at a single financial institution on a single day in order to meet the definition of ‘structure’ or ‘structuring’ provided in this chapter.

(50) ‘Transaction’ means a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition, and with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of a stock, bond, certificate of deposit, or other monetary instrument, use of a safety deposit box, or another payment, transfer, or delivery by, through, or to a money services business, by whatever means effected.

(51) ‘Unlicensed money courier’ means an unlicensed individual or entity that transports currency for another person either within or without the state or country in violation of this chapter.

(52) ‘Unsafe or unsound act or practice’ means a practice of or conduct by a license holder or an authorized agent of the license holder that creates the likelihood of material loss, insolvency, or dissipation of the license holder’s assets, or that otherwise materially prejudices the interests of the license holder or the license holder’s customers.

Section 1‑36‑110. (A) There is hereby established the South Carolina Department of Money Services and Financial Technologies, which is referred to in this chapter as the ‘department’. The department shall regulate the money services industry in South Carolina and must be headed by a Director of Money Services and Financial Technologies. The director may designate a deputy director who has the power to perform the duties of the director. The deputy director shall hold this appointment at the will and pleasure of the director. The director also may appoint or hire assistants, investigators, and administrative staff necessary to effectuate the purposes of this chapter.

(B) The department shall work with industry, academia, and others to develop and maintain expertise in the technologies used or being developed for use by money services businesses and the financial industry, as well as methods or techniques to undermine or use these technologies for illicit purposes.

(C) An annual report of the activities undertaken by the department must be presented to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Governor. This report shall contain information on the following:

(1) emerging trends and technology in the money services industry and their implications for South Carolina;

(2) total number of examinations or investigations undertaken by the department; and

(3) legislative recommendations and requests from the department.

(D) The department shall provide investigative and oversight specialists to work in all the South Carolina solicitor’s jurisdictions on a permanent basis. These department personnel shall conduct independent investigations for prosecution by the solicitors, as well as work with state and local law enforcement and the solicitors to identify, investigate, and aid in the prosecution of crimes related to this chapter as requested by the solicitors.

Section 1‑36‑115. (A) The department shall administer this chapter and exercise all administrative functions of the State in relation to the regulation, supervision, and licensing of money services businesses.

(B) The director may promulgate, amend, and repeal administrative rules, regulations, forms, and orders necessary to interpret and enforce the provisions of this chapter. The director has the authority and responsibility for the discharge of all duties imposed by law on the department.

Section 1‑36‑120. (A) The State Treasurer shall create a revolving fund for the department designated the ‘Money Services Oversight Revolving Fund’, and referred to in this chapter as the ‘department account’. The fund must be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the department pursuant to this chapter.

(B) The department is authorized to accept gifts, grants, or donations, including in‑kind donations from private or public sources. All private and public funds received through gifts, grants, or donations by the department must be transmitted to the State Treasurer, who shall credit them to the department account.

(C) All unexpended and unencumbered funds remaining in the department account at the end of a fiscal year shall remain in the department account and must not be credited or transferred to another fund or account.

(D) The General Assembly shall make a one‑time appropriation to the department sufficient to fund reasonable and necessary start‑up expenses, including those of a temporary acting director and necessary staff to establish the rules and regulatory framework, and to execute the initial requirements of this chapter. Once the department is functional, the department shall operate entirely on fees, fines, donations and other similar funding sources. All subsequent appropriations made by the General Assembly must be repaid to the general fund once the department is functional.

(E) All monies accruing to the credit of the department account may be budgeted and expended by the director for purposes related to this chapter and to support local law enforcement and the solicitors’ efforts to investigate and prosecute money laundering and similar financial crimes.

Section 1‑36‑125. All money services businesses and their authorized agents operating in or conducting business, whether licensed or not, in or with South Carolina citizens, businesses, or other entities must be subject to regulation, oversight, and investigations by the department.

Section 1‑36‑130. (A) There must be established a Money Services Commission, hereby referred to as the ‘commission’. Members shall serve without compensation for a two year term; however, the terms of the members initially appointed must be staggered for either one or two years. The commission shall consist of five persons appointed by the Governor as follows:

(1) three members from the money services, financial, or investment industry, upon the recommendation of the Dean of the University of South Carolina School of Business;

(2) one member with an extensive law enforcement experience, upon the recommendation of the South Carolina Sheriff’s Association; and

(3) one member with extensive criminal prosecution experience in the criminal courts of this State, upon the recommendation of the South Carolina Solicitor’s Association.

(B) In order to attract the most competent professionals to serve in the department, who possess the requisite subject matter expertise, the commission shall establish, in accordance with state law and regulations, the salary of the director, which will be based on the funds available in the department account. Salaries in the money services and investment fields, individual backgrounds and experience, and other factors the commission deems appropriate may be considered in establishing the director’s annual salary. A majority of the commission also may provide nonbinding advisory opinions to the director.

Section 1‑36‑135. (A) Pursuant to subsection (E), the Governor shall appoint the director for a term of six years.

(B) The term of the commissioner shall begin and expire on the first Monday in June of the appropriate year. If the initial appointment of the director occurs after the first Monday of June then that director shall serve up to an additional three hundred sixty‑four days beyond six years, after which each successive appointment shall consist of six year terms beginning and ending on the first Monday of June. The Governor only may remove an incumbent director for cause, and the director shall execute his duties in an independent and unbiased manner.

(C) The director and department must be independent of all other state agencies and offices in their regulatory, oversight and investigative jurisdiction; however, the department shall report investigative findings to both the South Carolina Attorney General and to the solicitor of the judicial circuit where a potential violation occurred. The director shall ensure that the department adequately supports state and local law enforcement and the solicitors during all phases of an investigation or related criminal prosecution. The director shall provide reports, data, and testimony to the General Assembly and to the Governor as requested.

(D) A person appointed as director must have, within ten years preceding his first appointment, at least three years active experience or service in:

(1) the money services industry to include experience with the current and emerging technologies utilized by the industry;

(2) intelligence operations related to finances; or

(3) an executive capacity at the state or federal level with direct involvement in the policy and oversight of issues related to money services businesses.

(E) Since the director has a duty to administer this chapter in an independent and unbiased manner, and in recognition of the close working relationship the director shall have with the local law enforcement agencies and the judicial circuit solicitors, the Governor, in appointing a director, shall consider and give due weight to the recommendations of the South Carolina Sheriff’s Association and the South Carolina Solicitor’s Association.

Section 1‑36‑140. In addition to the other powers, express or implied, the director may:

(1) exercise all powers that are necessary for the administration and enforcement of the laws and rules relating to money services businesses;

(2) adopt rules that are necessary or appropriate to administer, enforce, and accomplish the purposes of this title and adopt rules and issue orders that limit transactions between money services businesses and the directors, departments, or employees of the money services businesses;

(3) require appropriate records, documents, information, and reports from a money services business;

(4) submit to any agency necessary, the name and fingerprints of an applicant, licensee, active manager, or responsible individual, or the name and fingerprints of an organizer, director, or department of a corporate applicant, or licensee for a money services business;

(5) employ appraisers to appraise property that is owned or held as security by a money services business. The reasonable expenses and compensation of an appraiser must be paid by the money services business;

(6) hold membership in, pay dues to, and attend the convention of the national and regional organizations of state officials occupying like positions or performing similar functions;

(7) attend, speak, and cooperate with other regulatory agencies and professional associations to promote the efficient, safe and sound operation, and regulation of the money services industry and banking technologies, including the formulation of interstate examination policies and procedures and the drafting of model rules and agreements;

(8) enter into contracts with public agencies, institutions of higher education, private organizations, or individuals for the purpose of conducting research, demonstrations, or special projects that bear directly on the use of, regulation, or investigation of money services businesses and related technologies;

(9) accept gifts, bequests, devises, contributions, and grants, public or private, including federal funds or funds from another source for use in furthering the purpose of the office of the director and this chapter;

(10) exercise custody and control of all monies appropriated for or deposited to the credit of the department;

(11) cooperate with local law enforcement and the solicitors in discharging his responsibilities concerning the oversight and illicit use of money services businesses;

(12) arrange for the exchange of information between governmental officials concerning the use and abuse of money services businesses;

(13) coordinate and cooperate in training programs on the illicit use of money services businesses and money laundering at the local level; and

(14) conduct an annual seminar to be attended by law enforcement officers and solicitors in order to teach new techniques and advances in the investigation of violations of money services businesses.

Section 1‑36‑145. (A) The director may adopt rules to administer and enforce this chapter, including rules necessary or appropriate to:

(1) implement and clarify this chapter;

(2) preserve and protect the safety and soundness of money services businesses;

(3) protect the interests of purchasers of money services and the public;

(4) combat drug trafficking, terrorist funding, money laundering, structuring, or related financial crime; and

(5) recover the cost of maintaining and operating the department and the cost of administering and enforcing this chapter and other applicable law by imposing and collecting proportionate and equitable fees and costs for notices, applications, examinations, investigations, and other actions required to achieve the purposes of this chapter.

(B) The exclusion of a specific reference in this chapter to a rule regarding a particular subject is unintentional and does not limit the general rulemaking authority granted to the director by this section.

Section 1‑36‑150. Within the department, the director shall establish a Financial Technology Research Center, which is referred to in this chapter as the ‘center’. The center’s purpose is to interact with and engage industry and academia to investigate, research, and assist in the development of emerging technologies related to the financial sector. In the course of its work, the center may establish partnerships and acquire rights to select technologies for the benefit of the State of South Carolina and its departments and agencies. The center also may function as the department’s contract and obligation authority. The center and its activities must be paid for out of funds collected under this chapter. The director shall determine the nature, scope, and organization of the center as well as the status of its employees.

Section 1‑36‑155. (A) The director may conduct investigations in or outside this State and the United States as he deems necessary or appropriate to administer and enforce this chapter, related rules or orders, or aid in the adoption of rules or issuance of orders, or of a practice or conduct that creates the likelihood of material loss, insolvency, or dissipation of the assets of a money services business, or otherwise materially prejudices the interests of their customers. Contracted third‑party specialists may be used as appropriate to support department investigations.

(B) Persons subject to this chapter who are examined or investigated shall make available to the department all books, accounts, documents, files, information, assets, and matters that are in their immediate possession or control and that relate to the subject of the examination or investigation. Records not in their immediate possession must be made available to the department within three business days after actual notice is served. Upon notice, the department may require that records written in a language other than English be accompanied by a certified translation at the expense of the licensee. For purposes of this section, the term ‘certified translation’ means a document translated by a person who is currently certified as a translator by the American Translators Association or other organization designated by rule.

(C) For purposes of an investigation, examination, or other proceeding under this chapter, the director or designee may:

(1) administer oaths or cause them to be administered;

(2) issue, revoke, quash, or modify subpoenas and subpoenas duces tecum under the seal of the department or cause a subpoena or subpoena duces tecum to be issued by a magistrate or circuit court judge, to require a person to appear before the department at a reasonable time and place named, and to bring books, records, and documents for inspection which may be designated. Subpoenas may be served by a representative of the department or as otherwise provided by law for the service of subpoenas;

(3) subpoena and compel the attendance of witnesses;

(4) take evidence or testimony and conduct depositions; and

(5) require the production of a record, document, or other piece of evidence that the director determines relevant to the inquiry.

(D) If a person does not comply with a subpoena issued or caused to be issued by the department pursuant to this section, the director, or his designee, may petition a court of competent jurisdiction for an order requiring the subpoenaed person to appear and testify and to produce records specified in the subpoena duces tecum or to give evidence regarding the matter under investigation. A copy of the petition must be served upon the person subpoenaed by a person authorized by this section to serve subpoenas, who shall make and file with the court an affidavit showing the time, place, and date of service. At a hearing on the petition, the person subpoenaed, or a person whose interests are substantially affected by the investigation, examination, or subpoena, may appear and object to the subpoena and to the granting of the petition. Failure to comply with an order granting, in whole or in part, a petition for enforcement of a subpoena is a contempt of the court.

(E) The director may employ a person or request a solicitor, or another state, federal, or local law enforcement agency to assist in enforcing this chapter.

(F) The director may recover the reasonable costs incurred in connection with an investigation conducted under this chapter from the person that is the subject of the investigation.

(G) Witnesses are entitled to the same fees and mileage as witnesses in the circuit court, except that fees and mileage are not allowed for the testimony of a person taken at the person’s principal place of business or residence.

(H) Reasonable and necessary costs incurred by the department, or third parties authorized by the department, in connection with examinations or investigations may be assessed against a person subject to this chapter on the basis of actual costs incurred. Assessable expenses include, but are not limited to, expenses for: interpreters; certified translations of documents into the English language required by this chapter or related rules; communications; legal representation; economic, legal, or other research, analyses, testimony; fees and expenses for witnesses. Failure to reimburse the department is grounds for license revocation or denial of a license application or renewal.

(I) The director, or his designee, promptly shall provide a written report of an alleged felony violation to the appropriate law enforcement agency and prosecuting attorney’s office with jurisdiction over the offense.

Section 1‑36‑160. (A) To more efficiently administer and enforce this chapter, the director may cooperate, coordinate, and share information with another state, federal, or foreign governmental agency that:

(1) regulates or supervises persons engaged in money services businesses or activities subject to this chapter; or

(2) is authorized to investigate or prosecute violations of a state, federal, or foreign law regarding money services businesses or activities subject to this chapter.

(B) For purposes of subsection (A), the director may:

(1) enter into a written cooperation, coordination, or information‑sharing contract or agreement with the agency;

(2) share information with the agency, subject to relevant confidentiality provisions;

(3) conduct a joint or concurrent onsite examination or other investigation or enforcement action with the agency;

(4) accept a report of examination or investigation by, or a report submitted to, the agency, in which event the accepted report is an official report of the director for all purposes;

(5) engage the services of the agency to assist the director in performing or discharging a duty or responsibility imposed by this chapter or other law and pay a reasonable fee for the services;

(6) share with the agency a supervisory or examination fee assessed against a license holder or authorized agent under this chapter and receive a portion of supervisory or examination fees assessed by the agency against a license holder or authorized agent; or

(7) take other action the director considers reasonably necessary or appropriate to carry out and achieve the purposes of this chapter.

(C) The director may not waive, and nothing in this section constitutes a waiver of the director’s authority to conduct an examination or investigation or otherwise take independent action authorized by this chapter or a rule adopted or order issued under this chapter to enforce compliance with applicable state or federal law. A joint examination or investigation, or acceptance of an examination or investigation report, does not waive an examination assessment provided for in this chapter.

Section 1‑36‑165. A license holder, an authorized agent, or a person who knowingly engages in activities that are regulated and require a license under this chapter, with or without filing an application for a license or holding a license under this chapter, is considered to have consented to the jurisdiction of the courts of this State for all actions arising under this chapter.

Section 1‑36‑170. (A) A person may not operate a money services business or advertise, solicit, or hold himself out as a money services business unless the person:

(1) is licensed pursuant to this chapter;

(2) is an authorized agent of a person licensed pursuant to this chapter;

(3) is excluded from licensure; or

(4) has been granted an exemption pursuant to this chapter.

(B) A person engages in activity regulated by this chapter if the person:

(1) performs or provides a service within this State that constitutes an element of money services activities as defined and regulated pursuant to this chapter;

(2) performs or provides a service outside this State that constitutes an element of money services activities as defined and regulated pursuant to this chapter, and which constitutes an attempt, offer, or conspiracy to engage in the activity within this State and an act to further the attempt, offer, or conspiracy occurs within this State; or

(3) knowingly transmits money into this State or makes payments in this State without disclosing the identity of each person on whose behalf money was transmitted or payment was made as part of a business activity defined and regulated pursuant to this chapter.

(C) The director may exempt a person from licensure pursuant to this chapter upon application and a finding that the exemption is in the public interest and does not violate federal or state laws or regulations.

Section 1‑36‑175. The following persons are exempt from licensure pursuant to this chapter:

(1) the United States or an agency or department of the United States;

(2) a state or an agency, political subdivision, or other instrumentality of a state;

(3) a federally insured financial institution that is organized under the laws of this State, another state, or the United States;

(4) a foreign bank branch or agency in the United States established under the federal International Banking Act of 1978 (12 U.S.C. Section 3101 et seq.);

(5) an attorney or title company that, in connection with a real property transaction, receives and disburses domestic currency or issues an escrow or trust fund check only on behalf of a party to the transaction;

(6) a person engaged in the business of currency transportation who is both a registered motor carrier and a licensed armored car company or courier company, provided that the person does not engage in the money transmission or currency exchange business without a license issued pursuant to this chapter; or

(7) a person, transaction, or class of persons or transactions exempted by department rule, or a person or transaction exempted by the director’s order on a finding that the licensing of the person is not necessary to achieve the purposes of this chapter.

Section 1‑36‑180. (A) Subject to subsections (B) and (C), to qualify for a license issued pursuant to this chapter, an applicant must show that:

(1) the financial responsibility, business experience, competence, character, and general fitness of the applicant justify the public’s confidence and belief that the applicant will conduct business in compliance with this chapter and the rules adopted pursuant to this chapter and other applicable state and federal laws;

(2) the issuance of the license is in the public interest;

(3) neither the applicant nor an agent, partner, or associate of the applicant owes the department a delinquent fee, assessment, administrative penalty, or other amount imposed pursuant to this chapter or a rule or order issued pursuant to this chapter;

(4) neither the applicant nor an agent, partner, or associate of the applicant owes a delinquent state or federal tax;

(5) the applicant is in good standing and statutory compliance in the state or country of incorporation;

(6) the applicant is authorized to engage in business in this State;

(7) the applicant is registered as a money services business with the Financial Crimes Enforcement Network as required by 31 C.F.R. Section 103.41, if applicable;

(8) the applicant has an antimoney laundering program in place which meets the requirements of 31 C.F.R. Section 103.125;

(9) neither the applicant nor an agent, partner, or associate of the applicant is listed on the specifically designated nationals and blocked persons list prepared by the United States Department of the Treasury, United States Department of State, another federal agency or foreign government or the United Nations, as a potential threat to commit or fund terrorist acts; and

(10) the applicant possesses and is capable of maintaining the minimum net worth and bond required pursuant to this chapter.

(B) In determining whether an applicant has demonstrated satisfaction of the qualifications identified in subsection (A)(1), the director shall consider the financial responsibility, business experience, competence, character, and general fitness of the applicant and all agents, partners, or associates of the applicant, and the director may deny an application on the basis that the applicant has failed to demonstrate the requisite qualifications regarding one or more of those persons.

(C) The director may not issue a license to an applicant if the applicant or an agent, spouse, partner, or associate of the applicant has been convicted within the preceding ten years of a criminal offense specified in subsection (D). Upon request, the director, may waive an otherwise disqualifying conviction if he finds compelling evidence that the conviction does not reflect adversely on the present likelihood of an applicant’s ability to conduct business in compliance with all federal and state laws and regulations.

(D) For purposes of subsection (C), a disqualifying conviction is a conviction for a felony criminal offense:

(1) under state or federal law that involves or relates to:

(a) deception, dishonesty, or defalcation;

(b) money transmission or other money services, including a reporting, recordkeeping, or registration requirement of the Bank Secrecy Act, the USA Patriot Act, or applicable state law;

(c) money laundering, structuring, or a related financial crime;

(d) drug or human trafficking; or

(e) terrorist funding; and

(2) under a similar foreign law, unless the applicant demonstrates to the director’s satisfaction that the conviction was based on extenuating circumstances unrelated to the person’s reputation for honesty and obedience to law.

(E) For purposes of subsection (C), a person is considered to have been convicted of an offense if the person has been found guilty, pleaded guilty or nolo contendere to the charge, or has been placed on probation or deferred adjudication without regard to whether a judgment of conviction has been entered by the court.

Section 1‑36‑185. (A) To apply for a license as a money services business pursuant to this chapter, a person must submit an application on forms approved by the director, or his designee, that include the following information:

(1) legal name and address of the applicant, including any fictitious or trade names used by the applicant in the conduct of its business;

(2) date of the applicant’s formation and the state of origination or incorporation, as well as copies of the articles of incorporation and other information concerning the corporate status of the applicant, if applicable;

(3) name, social security number, alien identification or taxpayer identification number, business and home addresses, and employment history for the past five years for each department, director, responsible person, the compliance department, each controlling shareholder, and any other person who has a controlling interest in the money services business, and authorized agents of the money services applicant;

(4) description of the organizational structure of the applicant, including the identity of a parent or subsidiary of the applicant, and the disclosure of whether a parent or subsidiary is publicly traded;

(5) applicant’s history of operations in other states, if applicable, and a description of the money services business or deferred presentment provider activities proposed to be conducted by the applicant in this State;

(6) if the applicant or its parent is a publicly traded company, copies of all filings made by the applicant with the United States Securities and Exchange Commission, or with a similar regulator in a country other than the United States, within the preceding year;

(7) location at which the applicant proposes to establish its principal place of business and other locations, including branch departments and authorized agents operating in this State;

(8) name and address of the clearing financial institution or financial institutions through which the applicant’s payment instruments are drawn or through which the payment instruments are payable;

(9) history of the applicant’s material litigation, criminal convictions, pleas of nolo contendere, and cases of adjudication withheld;

(10) history of material litigation, arrests, criminal convictions, pleas of nolo contendere, and cases of adjudication withheld for each executive department, director, controlling shareholder, and responsible person;

(11) name of the registered agent in this State for service of process;

(12) fingerprint card for each of the persons listed in item (3) of this section, unless the applicant is a publicly traded corporation, or is exempted by rule. The fingerprints must be taken by an authorized law enforcement agency and submitted to the department for state processing, and the department shall forward the fingerprints to the Federal Bureau of Investigation for federal processing. The cost of the fingerprint processing must be borne by the applicant. The department shall screen the background results to determine if the applicant meets licensure requirements. As used in this section, the term ‘publicly traded’ means a stock is currently traded on a national securities exchange registered with the federal Securities and Exchange Commission or traded on an exchange in a country other than the United States regulated by a regulator equivalent to the Securities and Exchange Commission and the disclosure and reporting requirements of the regulator are substantially similar to those of the department;

(13) copy of the applicant’s written antimoney laundering program required under 31 C.F.R. Section 103.125;

(14) written certification on the application that the applicant and each principal of, person in control of, and proposed responsible individual of the applicant:

(a) is familiar with and agrees to fully comply with all applicable state and federal laws and regulations pertaining to the applicant’s proposed money services business, including this chapter, relevant provisions of the Bank Secrecy Act, the USA Patriot Act, and this chapter;

(b) has not within the preceding three years knowingly failed to file or evaded the obligation to file a report, including a currency transaction or suspicious activity report required by the Bank Secrecy Act, the USA Patriot Act, or this chapter; and

(c) has not knowingly accepted money for transmission or exchange in which a portion of the money was derived from an illegal transaction or activity;

(15) sample authorized agent contract, if applicable;

(16) sample of transfer forms, documents, payment instruments or other relevant commercial materials the applicant uses to provide services to the general public;

(17) nonrefundable application fee, as provided in this chapter, for each branch department or location of an authorized agent; and

(18) other information specified in this chapter or by rule, or other information necessary to resolve any deficiencies found in the application.

(B) If the director determines that the applicant meets the qualifications and requirements of this chapter, the department shall issue a license to the applicant. A license issued pursuant to this chapter shall expire annually on December thirty‑first following the date of issuance of the license, unless during that period the license is surrendered, suspended, or revoked.

Section 1‑36‑190. (A) On receipt of an application that appears to satisfy the requirements of this chapter, the director shall investigate the applicant to determine whether the prescribed qualifications have been met. The director may:

(1) conduct an onsite investigation of the applicant;

(2) employ a screening service to assist with the investigation;

(3) to the extent the director considers reasonably necessary to evaluate the application and the applicant’s qualifications, investigate the financial responsibility, business experience, competence, character, and general fitness of the applicant and all agents, partners, or associates of the applicant, or other persons who will be associated with the applicant’s licensed activities in this State; or

(4) require additional information or take other actions the director considers reasonably necessary.

(B) The director may collect from the applicant the reasonable expenses of an onsite examination or third‑party investigation. Additionally, depending on the nature and extent of the investigation required in connection with a particular application, the director may require an applicant to pay a nonrefundable investigation fee in an amount established by department rule.

(C) The director may suspend consideration of an application for a license if the applicant or a principal of, person in control of, or proposed responsible individual of the applicant is the subject of a pending state or federal criminal prosecution, state or federal government enforcement action, or state or federal asset forfeiture proceeding until the conclusion of the prosecution, action, or proceeding.

Section 1‑36‑195. (A) The director shall approve or deny a license within one hundred twenty days after the date an application is complete, which period may be extended by the written consent of the applicant. The director shall notify the applicant of the date on which the application is determined to be complete. In the absence of approval or denial of the application or consent to the extension of the one hundred twenty day period, the application is deemed approved and the director shall issue the license effective as of the first business day after that one hundred twenty day period, or an extended period.

(B) The director shall issue a license if the director, with respect to the license for which application has been made, finds that the:

(1) applicant meets the prescribed qualifications and it is reasonable to believe that the applicant’s business will be conducted fairly and lawfully, according to applicable state and federal law, and in a manner warranting the public’s trust and confidence;

(2) issuance of the license is in the public interest;

(3) documentation and forms required to be submitted by the applicant are acceptable; and

(4) applicant has paid all applicable fees and satisfied all requirements for licensure.

(C) If the director finds that the applicant for any reason fails to possess the qualifications or satisfy the requirements for the license for which application is made, the director shall inform the applicant in writing that the application is denied and state the reasons for the denial. The applicant may appeal the denial by filing a written request for a hearing with the director not later than the thirtieth day after the date the notice is mailed. A hearing on the denial must be held not later than the forty‑fifth day after the date the director receives the written request unless the administrative law judge extends the period for good cause or the parties agree to a later hearing date.

Section 1‑36‑200. A license issued under this chapter may not be transferred or assigned.

Section 1‑36‑205. (A) Regardless of the date on which a license under this chapter is issued, the license expires on December thirty‑first of each year unless the license is renewed in accordance with this section, is previously surrendered by the license holder, or suspended or revoked by the director.

(B) As a condition of renewal, a license holder must continue to possess the qualifications and satisfy the requirements that apply to an applicant for a new money transmission license or currency exchange license, as applicable. Additionally, not later than January first of each year, a license holder must:

(1) pay an annual nonrefundable renewal fee of two hundred ten dollars;

(2) in addition to the license renewal fee, each licensee must pay a nonrefundable renewal fee of one hundred ten dollars for each authorized agent or location operating in this State;

(3) submit a renewal report in the form and medium required by the director that contains an audited unconsolidated financial statement dated as of the last day of the license holder’s fiscal year that ended in the immediately preceding calendar year; and

(4) documentation and certification, or other information the director reasonably requires to determine the security, net worth, permissible investments, and other requirements the license holder must satisfy, and whether the license holder continues to meet the qualifications and requirements for licensure.

(C) If the department does not receive a license holder’s renewal fee and complete renewal report by January first, the director shall notify the license holder in writing that the:

(1) license holder has until February fifteenth to submit the renewal report and pay the renewal fee; and

(2) license holder must pay a one hundred dollar nonrefundable late fee.

(D) If the license holder fails to submit the completed renewal report and pay the renewal fee and any late fee due, the license expires at midnight eastern daylight time on February fifteenth, and the license holder must cease and desist from engaging in the business of money services as of that time. The expiration of a license is not subject to appeal.

(E) On timely receipt of a license holder’s complete renewal report, renewal fee, and any late fee due, the department shall review the report and, if necessary, investigate the business and records of the license holder. On completion of the review and investigation, if any, the director may:

(1) renew the license;

(2) impose conditions on the renewal of the license the director may consider reasonably necessary or appropriate; or

(3) suspend or revoke the license on the basis of a ground specified in this chapter.

(F) On written application and for good cause shown, the director may extend the time for filing the fee and report required under this section.

(G) The license holder, his principal, or the person in control of the holder of an expired license surrendered under this chapter, who wishes to conduct activities for which a license is required under this chapter, must file a new license application and satisfy all requirements for licensure that apply at the time the new application is filed.

Section 1‑36‑210. (A) A license holder may surrender the license by delivering the original license to the director along with a written notice of surrender that includes the location at which the license holder’s records will be stored and the name, address, telephone number, and other contact information for an individual who is authorized to provide access to the records.

(B) A license holder shall surrender the license holder’s license if the license holder becomes ineligible for a license under this chapter.

(C) The surrender of a license does not reduce or eliminate a license holder’s civil or criminal liability arising from acts or omissions before the surrender of the license, including any administrative action undertaken by the director to deny the renewal of a license, to revoke or suspend a license, to assess an administrative penalty, to order the payment of restitution, or to exercise other authority under this chapter. Further, the surrender of a license does not release the security required of the license holder under this chapter.

Section 1‑36‑215. (A) The director shall revoke a license if he finds the:

(1) net worth of the license holder is less than the amount required under this chapter;

(2) license holder does not provide the security required under this chapter; or

(3) licensee is financially insolvent.

(B) The director may suspend or revoke a license if he finds:

(1) the license holder made a material misstatement or withheld information on an application for a license or a document required to be filed with the director;

(2) a fact or condition exists that, had it been known at the time the license holder submitted the application or renewal, the application or renewal would have been denied;

(3) the license holder has violated a provision of this chapter, rules adopted pursuant to this chapter, an order of the director, a written agreement entered into with the department or director, or another state or federal law applicable to the license holder’s money services business;

(4) an authorized agent of the license holder has violated a provision of this chapter, a rule adopted, or an order of the director as a result of a course of negligent failure to supervise or as a result of the wilful misconduct of the licensee;

(5) the license holder has engaged in fraud, knowing misrepresentation, deceit, or gross negligence in connection with the operation of the license holder’s money services business or a transaction subject to this chapter;

(6) the licensee refuses to permit the director to conduct an examination or investigation authorized by this chapter;

(7) the licensee knowingly fails to make a report required by this chapter;

(8) an authorized agent of the license holder has knowingly violated this chapter, a rule adopted, or order issued under this chapter, or a state or federal antimoney laundering or terrorist funding law, and the license holder knows, or should have known, of the violation and has failed to make a reasonable effort to prevent or correct the violation;

(9) the competence, experience, character, or general fitness of the license holder, its authorized agents, partners, associates, or other persons associated with the applicant’s licensed activities in this State reveal it is not in the public interest to permit the license holder to provide money services;

(10) the license holder has engaged in an unsafe or unsound act or practice or has conducted business in an unsafe or unsound manner;

(11) the license holder has suspended payment of its obligations, made a general assignment for the benefit of the license holder’s creditors, or admitted in writing it is unable to pay debts as they become due;

(12) the license holder has failed to terminate the authority of an authorized agent after the director has issued and served on the license holder a final order finding that the authorized agent has violated this chapter;

(13) the license holder has engaged in false, misleading, or deceptive advertising;

(14) the license holder has been convicted in state or federal court of a felony or a crime involving breach of trust or dishonesty; or

(15) the license holder fails to pay a judgment entered in favor of a claimant, plaintiff, or creditor in an action arising out of a business regulated under this chapter within thirty days after the judgment becomes final or within thirty days after expiration or termination of a stay of execution or other stay of proceedings, whichever is later.

(C) In determining whether a license holder has engaged in an unsafe or unsound act or practice or has conducted business in an unsafe or unsound manner, the director may consider the:

(1) size and condition of the license holder’s money services business;

(2) magnitude of the loss or potential loss;

(3) gravity of the violation of this chapter, rule, or order issued pursuant to this chapter;

(4) previous actions taken against the license holder by this State, another state, or the federal government; or

(5) license holder’s previous conduct and compliance with the laws of this State, another state, or the federal government.

(D) The director’s order suspending or revoking a license or directing a license holder to revoke the designation of an authorized agent is subject to this chapter, unless the order is issued as an emergency order.

Section 1‑36‑220. (A) All fees required pursuant to this chapter must be set by rule, unless otherwise stated.

(B) License application fees, license renewal fees, late payment penalties, civil penalties, administrative fines, and other fees, costs, or penalties provided for in this chapter must be paid directly to the department, which shall deposit the proceeds into the department account and use the proceeds to pay the costs of the department as necessary to carry out its responsibilities under this chapter.

Section 1‑36‑225. The director may establish rules for the issuance of temporary licenses. The effective period for a temporary license may not exceed ninety days from the date the license is issued, provided that the director may extend the period for no more than an additional thirty days if necessary to complete the processing of a timely filed application for which approval is likely.

Section 1‑36‑230. (A) An applicant for a money services business license shall possess and a money services business license holder continuously shall maintain the following minimum net worth computed in accordance with generally accepted accounting principles:

(1) one hundred thousand dollars, if business is proposed to be or is conducted, directly at a single location;

(2) two hundred thousand dollars, if business is proposed to be or is conducted, directly or through authorized agents, at four or fewer locations;

(3) five hundred thousand dollars, if business is proposed to be or is conducted, directly or through authorized agents, at five to ten locations;

(4) one million dollars if business is proposed to be or is conducted, directly or through authorized agents, at ten to fifty locations; or

(5) two million dollars if business is proposed to be or is conducted, directly or through authorized agents, at more than fifty locations.

(B) The director may increase the amount of net worth required of an applicant or license holder, up to a maximum of four million dollars, if the director determines, with respect to the applicant or license holder, that a higher net worth is necessary to achieve the purposes of this chapter.

(C) A license holder must obtain an annual financial audit report that must be submitted to the department within one hundred twenty days after the close of the license holder’s fiscal year, as disclosed to the department. If an applicant is a wholly owned subsidiary of another corporation, the financial audit report on the parent corporation’s financial statements shall satisfy this requirement.

Section 1‑36‑235. (A) An applicant for a money services business license shall obtain, and a money services business license holder continuously shall maintain, security consisting of a surety bond, an irrevocable letter of credit, or a deposit in lieu of a bond pursuant to this section.

(B) The amount of the required security may be specified by department rule, but may not be less than one hundred thousand dollars or exceed two million dollars. Additionally, the security must be:

(1) in a form satisfactory to the director;

(2) payable to a claimant or to the director on behalf of a claimant or this State for a liability arising out of the license holder’s money services business in this State;

(3) conditioned on the faithful compliance of the license holder or the principals, responsible individuals, employees, and authorized agents of the license holder with this chapter, a rule adopted, or order issued under this chapter; and

(4) issued, if the security is a bond by a qualified surety company authorized to engage in business in this State and acceptable to the director, or if the security is an irrevocable letter of credit issued by a financial institution acceptable to the director.

(D) A claimant may bring suit directly on the security, or the director may bring suit on behalf of the claimant or the State, either in one action or in successive actions.

(E) The director may collect from the security, or proceeds of the security, a delinquent fee, assessment, cost, penalty, or other amount imposed on and owed by a license holder. If the security is a surety bond, the director shall give the surety reasonable prior notice of a hearing to impose an administrative penalty against the license holder; however, the surety may not be considered an interested, aggrieved, or affected person for purposes of an administrative hearing.

(F) Within ten days after paying a claim, the corporate surety must give written notice of the payment to the department by registered mail with sufficient details to identify the claimant and the claim or judgment paid.

(G) If the principal sum of the bond is reduced by one or more recoveries or payments, the license holder must furnish a new or additional bond so the total or aggregate principal sum of the bond equals the sum required pursuant to this chapter. Alternatively, a license holder may furnish an endorsement executed by the corporate surety reinstating the bond to the required principal sum.

(H) The security remains in effect until canceled, which may occur only after providing thirty days’ written notice to the director. Cancellation does not affect liability incurred or accrued during the period covered by the security.

(I) The security shall cover claims for at least five years after the license holder surrenders its license or otherwise ceases to engage in activities for which a license is required under this chapter. The director may permit the amount of the security to be reduced or eliminated prior to that time to the extent that the amount of the license holder’s obligations to the department and to purchasers in this State is reduced. The director may permit a license holder to substitute another form of security when the license holder ceases to provide money transmission in this State.

(J) If the director determines that the required security is insecure, deficient in amount, or exhausted in whole or in part, the director by written order shall require the license holder to file or make new or additional security to comply with this section.

(K) In lieu of providing all or part of the amount of the security required by this section, an applicant or license holder may deposit, with a financial institution possessing trust powers that is authorized to conduct a trust business in this State and is acceptable to the director, an aggregate amount of United States currency, certificates of deposit, or other cash equivalents that equals the total amount of the required security or the remaining part of the security. This deposit:

(1) must be held in trust in the name of and be pledged to the director;

(2) must secure the same obligations as the security; and

(3) is subject to other conditions and terms the director may reasonably require.

(L) The security is considered by operation of law to be held in trust for the benefit of this State and an individual to whom an obligation arising under this chapter is owed, and may not be considered an asset or property of the license holder in the event of bankruptcy, receivership, or a claim against the license holder unrelated to the license holder’s obligations under this chapter.

Section 1‑36‑240. (A) A license holder shall continuously maintain permissible investments that have an aggregate market value computed in accordance with generally accepted accounting principles of at least the aggregate face amount of all outstanding money transmissions and payment instruments issued or sold by the license holder and authorized agents in the United States. As used in this chapter, permissible investments include:

(1) cash;

(2) certificates of deposit or other deposit liabilities of a domestic or foreign financial institution;

(3) bankers’ acceptances eligible for purchase by member banks of the Federal Reserve System;

(4) an investment bearing a rating of one of the three highest grades as defined by a nationally recognized rating service of their securities;

(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 a state, municipality, or a political subdepartment of a state or municipality;

(6) shares in a money market mutual fund;

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

(8) receivables that are due to a licensee from the licensee’s authorized agents except those that are more than ninety days past due or are doubtful of collection;

(9) the surety bond provided under this chapter; or

(10) other assets and investments permitted by rule or approved by the director in writing, based on a determination that the assets or investments have a safety substantially equivalent to other permissible investments.

(B) Except for cash and certificates of deposit, the director may limit the extent to which a class of permissible investments may be deemed to satisfy the requirements of subsection (A).

(C) The director may waive the permissible investments requirement if the dollar value of a licensee’s outstanding payment instruments and money transmitted do not exceed the bond or collateral deposit posted by the licensee under this chapter.

(D) For purposes of determining compliance with this chapter, the director may limit or disallow an otherwise permissible investment, surety bond, or letter of credit if he finds that it is either unsatisfactory for investment purposes or poses a significant supervisory concern. Additionally, a permissible investment, even if commingled with a licensee’s other assets, is deemed to be held in trust for the benefit of anyone to whom an obligation arising under this chapter is owed. In the event of a licensee’s bankruptcy, receivership, or other claim against the licensee unrelated to its obligations pursuant to this chapter, the investment may not be treated as an asset or property of the licensee.

Section 1‑36‑245. A licensee is liable for the payment of all money or monetary value received for transmission either directly or through an authorized agent. Moreover, both a licensee and its principal are liable for all payment instruments sold, regardless of the instrument’s form, negotiability, or whether it is sold directly or through an authorized agent.

Section 1‑36‑250. (A) A licensee may conduct its money services business through an authorized agent appointed pursuant to this section. A licensee is responsible for the acts performed by an authorized agent which:

(1) are conducted pursuant to the authority granted to the agent by the licensee;

(2) relate to the licensee’s money services business; and

(3) for which the licensee has, or reasonably should have, knowledge.

(B) Before a licensee conducts business through an authorized agent or allows a person to act as an authorized agent, the licensee must:

(1) adopt, and update as necessary, written policies and procedures designed to ensure that the licensee’s authorized agent complies with applicable state and federal law;

(2) enter into a written contract that complies with subsection (C); and

(3) conduct a reasonable risk‑based background investigation sufficient for the licensee to determine whether the authorized agent has complied with applicable state and federal law.

(C) The written contract required by subsection (B)(2) must be signed by both the licensee and the authorized agent and must:

(1) appoint the person signing the contract as the license holder’s authorized agent with the authority to conduct money services on behalf of the license holder;

(2) set forth the nature and scope of the relationship between the license holder and the authorized agent and the respective rights and responsibilities of the parties;

(3) require the authorized agent to certify that the agent is familiar with and agrees to fully comply with all applicable state and federal laws, rules, and regulations pertaining to money services, including this chapter and rules adopted under this chapter, and relevant provisions of the Bank Secrecy Act and the USA Patriot Act;

(4) require the authorized agent to remit and handle money and monetary value in accordance with this chapter;

(5) impose a trust on money and monetary value received pursuant to this chapter;

(6) require the authorized agent to prepare and maintain records as required by this chapter, a rule adopted under this chapter, or as reasonably requested by the director;

(7) acknowledge that the authorized agent consents to examination or investigation by the director and the jurisdiction of the courts of South Carolina;

(8) state that the licensee is subject to regulation by the director and that, as part of the regulatory process, the director may suspend or revoke an authorized agent’s designation or require the licensee to terminate an authorized agent designation;

(9) acknowledge receipt of the written policies and procedures required under subsection (B)(1); and

(10) acknowledge that the authorized agent has been provided regulatory website addresses through which the authorized agent can access this chapter, rules adopted under this chapter, the Bank Secrecy Act, and the USA Patriot Act.

(D) A licensee immediately shall report to the director the theft or loss of payment instruments or stored value if the amount of the theft or loss exceeds three thousand dollars.

(E) A licensee shall notify its authorized agents and require them to take all lawful actions required by the director if the licensee:

(1) fails to renew a money services business license; or

(2) is subject to an emergency or final order that affects the conduct of the licensee’s business through an authorized agent.

(F) A licensee must maintain and provide to the department a current list of authorized agents located in this State that includes the name and business address of each agent. A licensee shall update its list of authorized agents quarterly.

Section 1‑36‑255. (A) A licensee’s authorized agent shall:

(1) act only as authorized under its contract with the licensee and in strict compliance with the director’s and licensee’s written policies, procedures, and instructions;

(2) cooperate with an investigation or examination conducted by the director and is considered to have consented to the director’s examination of the agent’s books and records;

(3) report immediately the theft or loss of payment instruments or stored value to both the license holder and the director;

(4) display prominently on the form prescribed by the director a notice that indicates that the person is the licensee’s authorized agent;

(5) cease to provide money services as the licensee’s authorized agent immediately on receipt of notice from the director or the licensee;

(6) not commit fraud or make a misleading statement to a licensee or the director;

(7) not commit an unsafe or unsound act or practice or conduct business in an unsafe and unsound manner.

(B) An authorized agent shall remit all money owed to the licensee:

(1) within ten business days after the date the authorized agent received the money;

(2) pursuant to the terms of the contract between the licensee and the authorized agent; or

(3) pursuant to instructions from the director.

(C) A business for which a license is required pursuant to this chapter, which is conducted by an authorized agent outside the scope of authority conferred in the contract between the authorized agent and the licensee, constitutes unlicensed activity.

Section 1‑36‑260. (A) A licensee shall hold in trust all money received for transmission directly or from an authorized agent from the time of receipt until the time the transmission obligation is discharged. A trust resulting from the licensee’s actions is in favor of the persons to whom the related money transmission obligation is owed.

(B) A licensee’s authorized agent shall hold in trust all money received for transmission by or for the licensee from the time of receipt until the time the money is remitted by the authorized agent to the licensee. A trust resulting from the authorized agent’s actions is in favor of the licensee.

(C) A licensee’s authorized agent may not commingle the money received for transmission by or for the licensee with the authorized agent’s own money or other property, except to use in the ordinary course of the agent’s business for the purpose of making change, provided the money is accounted for at the end of each business day.

(D) If a licensee or the licensee’s authorized agent commingles money received for transmission with money or other property owned or controlled by the licensee, all commingled money and other property are impressed with a trust as provided by this section in an amount equal to the amount of money received for transmission, less the amount of fees paid for the transmission.

(E) If the director revokes a license pursuant to this chapter, all money held in trust by the licensee and the licensee’s authorized agents is assigned to the director for the benefit of the persons to whom the related money transmission obligations are owed.

(F) Money of a licensee or an authorized agent impressed with a trust pursuant to this section may not be considered an asset or property of the licensee or authorized agent in the event of bankruptcy, receivership, or a claim against the licensee or authorized agent unrelated to the licensee’s or agent’s obligations pursuant to this chapter.

Section 1‑36‑265. (A) A licensee or a private person that issues money orders shall collect a fee of:

(1) five dollars for each transaction not exceeding five hundred dollars; and

(2) ten dollars plus two percent for each transaction exceeding five hundred dollars.

(B) The fees defined in subsection (A) must be remitted quarterly to the South Carolina Department of Revenue on forms approved by the director. All required forms and remittances must be filed with the Department of Revenue by the fifteenth day of the month following the close of each calendar quarter.

(C) The South Carolina Department of Revenue shall apportion all revenues derived from the fee to the Money Services Oversight Revolving Fund, also referred to in this chapter as the ‘department account’. All funds recovered under this section must be used by the department for its requirements under this chapter, except:

(1) twenty percent shall go toward funding efforts by the solicitors to investigate and prosecute organized and financial crimes in their jurisdictions, to include staffing, equipping, and training efforts for purposes of this chapter;

(2) twenty percent shall go toward funding grants for local law enforcement activities related to combating organized crime and financial crimes, to include staffing, equipping, and training efforts in furtherance of the purposes of this chapter;

(3) five percent shall go to the Office of the Attorney General for efforts to investigate and prosecute organized and financial crimes, to include staffing, equipping, and training efforts for purposes of this chapter;

(4) ten percent shall go to the South Carolina National Guard for efforts supporting the department in the investigation and oversight of money services businesses and related technologies, to include staffing, equipping, and training efforts for purposes of this chapter;

(5) five percent shall go to the center for research and development and other efforts related to financial and money services technologies and innovations, to include staffing, equipping, and training efforts for purposes of this chapter; and

(6) forty percent shall go to the department to fund its operations and obligations under this chapter and to provide personnel and resources to local law enforcement and the solicitors for day to day training, information exchange, and general support in the investigation and prevention of the illicit use of money services businesses in their jurisdictions. Funds recovered under this section for the department may be expended at the discretion of the director for purposes of this chapter.

(D) The director shall review and approve applications from law enforcement and the solicitors for grant allocations.

(E) Licensees and their authorized agents shall post a notice on a form prescribed by the director which notifies customers that upon filing an individual income tax return with either a valid social security number or a valid taxpayer identification number, the customer must be entitled to an income tax credit equal to the amount of the fee paid by the customer for the transaction.

(F) The South Carolina Department of Revenue and the department must be afforded all provisions currently under law to enforce the provisions of this section. If a licensee fails to file reports or fails to remit the fee authorized by this section, the department has the authority pursuant to this chapter to suspend the license of the licensee and its authorized agents. The licensee or its agents may not reapply for a license until all required reports have been filed and all required fee amounts have been remitted.

(G) The department also may make a claim against the surety bond of the licensee to recover delinquent fees or fines associated with this section.

Section 1‑36‑270. (A) A new licensee must be examined within six months after the issuance of the license. The department shall provide at least fifteen days’ notice to a licensee, its authorized agent, or license applicant before conducting an examination or investigation; however, the department may conduct an examination or investigation of a licensee, its authorized agents, or an affiliated party at any time and without advance notice if the department suspects that the licensee, authorized agent, or affiliated party has violated or is about to violate a provision of this chapter or a criminal law of this State or the United States. The department also may examine a licensee, its authorized agents, or affiliated parties, as necessary, to administer and enforce this chapter, department regulations, orders issued pursuant to this chapter, and other applicable law, including the Bank Secrecy Act and the USA Patriot Act.

(B) The department may:

(1) conduct an examination annually or at other times as the director may reasonably require for the protection of customers and in the public interest, but at least once every five years;

(2) conduct an off‑site review of records;

(3) conduct an examination in conjunction with an examination conducted by representatives of other state agencies or agencies of another state or of the federal government;

(4) accept the examination report of another state agency, an agency of another state, of the federal government, or a report prepared by an independent firm which, on being accepted, is considered for all purposes an official report of the director; and

(5) summon and examine under oath a principal, responsible individual, or employee of a licensee or its authorized agents and require the person to produce records regarding any matter related to the condition and business of the licensee or its authorized agents.

(C) A license holder or authorized agent of a license holder shall provide, and the director shall have full and complete access to, all records the director may reasonably require to conduct a complete examination. The records must be provided at the location and in the format specified by the director.

(D) Unless otherwise directed by the director, a licensee shall pay all costs reasonably incurred in connection with an examination of the licensee or the licensee’s authorized agents.

(E) Disclosure of information to the director under an examination request does not waive or otherwise affect or diminish confidentiality or a privilege to which the information is otherwise subject. Information disclosed to the director in connection with an examination is confidential.

Section 1‑36‑275. (A) The department may contract with third parties to conduct examinations under this chapter. The person or firm selected by the department may not have a conflict of interest that might affect its ability to independently perform its responsibilities with respect to an examination.

(B) An examination may be conducted by an independent certified public accountant, information technology specialist, or other specialist provided that the:

(1) rates charged to the licensee examined are consistent with rates charged by other firms in similar professions and are comparable with the rates charged for comparable examinations; and

(2) licensee makes payment for the examination pursuant to this chapter and in accordance with the rates and terms established by the department and the person or firm performing the examination.

Section 1‑36‑280. (A) Each licensee examined shall pay to the department the expenses of the examination at the rates approved by the director. These expenses shall include actual travel and accommodations expenses, compensation of the examiner or other person making the examination, and necessary attendant administrative costs of the department directly related to the examination. Travel and accommodations expenses are limited to those expenses incurred on account of the examination and must be paid by the examined licensee together with compensation upon presentation by the department to the licensee of a detailed account of the charges and expenses after a detailed statement has been filed by the examiner and approved by the department.

(B) All monies collected from licensees for examinations must be deposited into the department account for expenditure by the department in the furtherance of its responsibilities under this chapter.

Section 1‑36‑285. (A) A licensee must prepare, maintain, and preserve the following books, accounts, and other records for at least five years or another period as may be prescribed by the department, unless a longer period is required by other state or federal law:

(1) a record of each money transmission transaction or currency exchange transaction, as applicable;

(2) a general ledger posted in accordance with generally accepted accounting principles containing all asset, liability, capital, income, and expense accounts, unless directed otherwise by the director;

(3) bank statements and bank reconciliation records;

(4) all records and reports required by applicable state and federal law, including the reporting and recordkeeping requirements imposed by the Bank Secrecy Act, the USA Patriot Act, and other federal and state laws pertaining to money laundering, drug trafficking, or terrorist funding;

(5) a daily record of payment instruments sold and money transmitted;

(6) a general ledger containing all asset, liability, capital, income, and expense accounts, which must be posted at least monthly;

(7) daily settlement records received from authorized agents;

(8) monthly financial institution statements and reconciliation records;

(9) records of outstanding payment instruments and money transmitted;

(10) records of each payment instrument paid and money transmission delivered;

(11) a list of the names and addresses of all of the licensee’s authorized agents;

(12) records that document the establishment, monitoring, and termination of relationships with authorized agents and foreign affiliates;

(13) additional records, as prescribed by rule, designed to detect and prevent money laundering; and

(14) other records required by department rule or reasonably requested by the director to determine compliance with this chapter.

(B) The records required under this section may be:

(1) maintained in a photographic, electronic, or other similar form; and

(2) maintained at the licensee’s principal place of business or another location as may be reasonably selected by the director.

(C) An authorized agent must prepare, maintain, and preserve the records required by the department.

(D) The records required under this section are subject to inspection by the director.

(E) The records required under this section and the reports required under this chapter must be in English and the financial information contained in the records and reports must be denominated in United States dollars.

(F) The licensee must make the required records available to the department for examination and investigation within three business days after receipt of a written request. The director may require the records be accompanied by an individual who is available to answer questions regarding the records and the licensee regulated pursuant to this chapter.

(G) The original record of a licensee or authorized agent includes a record stored or transmitted by electronic, computerized, mechanized, or other information storage, retrieval, transmission system, or device that can generate, regenerate, or transmit the precise data or other information comprising the record. An original also includes the visible data or other information so generated, regenerated, or transmitted if it is legible or can be made legible by enlargement or other process.

(H) A person who wilfully violates this section is subject the remedies provided pursuant to this chapter.

Section 1‑36‑290. (A) An applicant or licensee shall file a written report with the director by the fifteenth day after the date the applicant or licensee knows, or has reason to know, of a material change in the information reported in an application or renewal report. The report must describe the change and the anticipated impact of the change on the activities of the applicant or license holder in this State.

(B) A licensee shall prepare and submit to the department the following written reports and statements:

(1) the renewal report required by this chapter, including an audited unconsolidated financial statement that is dated as of the last day of the license holder’s fiscal year that ended in the immediately preceding calendar year;

(2) a quarterly interim financial statement and report regarding the permissible investments required to be maintained under this chapter, which reflect the license holder’s financial condition and permissible investments as of the last day of the calendar quarter, to which the statement and report relate, and which are prepared not later than the forty‑fifth day after the last day of the calendar quarter;

(3) a list of all authorized agents, branch managers, responsible individuals, and locations within this State that have been added or terminated by the licensee within the fiscal quarter, including the name and street address of each location and authorized agent; and

(4) any other report required by the department to determine compliance with this chapter.

(C) On written application and for good cause shown, the director may extend the time for preparing or filing a statement or report required pursuant to this section.

Section 1‑36‑295. A licensee shall file a written report with the director within twenty‑four hours after the licensee holder discovers the:

(1) filing of a petition by or against the licensee for bankruptcy or reorganization;

(2) filing of a petition by or against the licensee for receivership, the commencement of another judicial or administrative proceeding for its dissolution or reorganization, or the making of a general assignment for the benefit of the licensee’s creditors;

(3) institution of a proceeding to revoke, suspend the license holder’s license, to enjoin, or otherwise require the license holder to cease and desist from engaging in an activity related to money services, by a state or country in which the license holder engages in business or is licensed;

(4) felony indictment or conviction of the licensee, principal, person in control, responsible individual, or authorized agent of the license holder for an offense identified in this chapter;

(5) cancellation or other impairment of the licensee’s security;

(6) inability to meet the licensee’s transmission obligations under this chapter for a period of twenty‑four hours or longer; or

(7) notification by a law enforcement or prosecutorial agency that the licensee or an authorized agent is under criminal investigation including, but not limited to, subpoenas to produce records or testimony and warrants issued by a court of competent jurisdiction, which authorize the search and seizure of records relating to a business activity regulated under this chapter.

Section 1‑36‑300. (A) A person may not directly or indirectly acquire control of a license holder or a person in control of a license holder without the prior written approval of the director, except as provided by this section.

(B) A licensee or proposed person in control shall:

(1) give the director written notice of a proposed change of control at least forty‑five days before the date the proposed transaction is to be consummated;

(2) request approval of the proposed change of control; and

(3) submit a nonrefundable fee in the amount of fifty dollars.

(C) A proposed person in control is subject to the same standards and qualifications that apply to a principal of an applicant for a new license pursuant to this chapter. The director may require the licensee or proposed person in control to provide the same type of information, documentation, and certifications and may conduct the same type of investigation the director requires and conducts in connection with a new license application.

(D) The director shall approve a proposed change of control if he determines that the proposed person in control has the financial responsibility, financial condition, business experience, competence, character, and general fitness to warrant the belief that the licensee’s business will be conducted in compliance with this chapter, rules adopted pursuant to this chapter, and other applicable state and federal law, and that the change of control will not jeopardize the public interest.

(E) If the director determines that the proposed person in control fails to meet the qualifications, standards, and requirements of this chapter, he shall inform the licensee and the proposed person in control in writing that the application is denied and state the reasons for the denial. The licensee or the proposed person in control may appeal the denial by filing a written request for a hearing with the director not later than the thirtieth day after the date the notice is mailed. A hearing on the denial must be held not later than the forty‑fifth day after the date the director receives the written request unless the administrative law judge extends the period for good cause or the parties agree to a later hearing date. The hearing is considered a contested case hearing.

(F) The following persons are exempt from the requirements of subsection (B), but the license holder must notify the director not later than the fifteenth day after the date the change of control becomes effective:

(1) a person who acts as proxy for the sole purpose of voting at a designated meeting of the security holders or holders of voting interests of a license holder or controlling person;

(2) a person who acquires control of a license holder by devise or descent;

(3) a person who acquires control as a personal representative, custodian, guardian, conservator, or trustee appointed by a court or by operation of law;

(4) a person exempted in the public interest by rule of the commission or by order of the director; and

(5) a person who has previously complied with and received approval under this chapter or who was identified as a person in control in a prior application filed with and approved by the director.

(G) Before filing an application for approval of a proposed change of control, a licensee may submit a written request asking the director to determine whether a person would be considered a proposed person in control of the license holder and whether the requirements of this section apply to the proposed transaction. The request must correctly and fully represent the facts relevant to the person and the proposed transaction. If the director determines that the person would not be a person in control of the licensee for purposes of this section, the director shall advise the licensee in writing that this section does not apply to the proposed person and transaction.

Section 1‑36‑305. (A) Except as otherwise provided in this section or by department rule, all information regarding an investigation or examination conducted pursuant to this chapter, and all other personal and financial information obtained through required applications, reports, and a related file or department record, is confidential and not subject to disclosure.

(B) The director may disclose confidential information when the:

(1) applicant, licensee, or authorized agent consents to the release of the information or has published the information contained in the release;

(2) director finds that release of the information is necessary to protect the public, purchasers, or potential purchasers of money services from immediate and irreparable harm;

(3) information is disclosed to an agency identified in this chapter, in which event the information remains confidential and the agency must take appropriate measures to maintain that confidentiality;

(4) information is required for an administrative hearing; or

(5) director discloses the information to a person acting on behalf of the director for regulatory or enforcement purposes, subject to an agreement that maintains the confidentiality of the information.

(C) This section does not prohibit the director from disclosing to the public:

(1) a list of licensees or authorized agents, including addresses and the names of contact individuals;

(2) the identity of a licensee or authorized agent subject to an emergency or final order of the director and the basis for the director’s action; or

(3) information regarding or included in a consumer complaint against a licensee or authorized agent.

(D) If an administrative, civil, or criminal proceeding against a money services business, its authorized agent, or an affiliated party is initiated and the department seeks to use matter that a licensee believes to be a trade secret or personal financial information, the records must be subject to an in camera review by an administrative law judge or a judge of a court of this State, another state, or the United States, as appropriate, for the purpose of determining if the matter constitutes a trade secret or is personal financial information.

(E) Except as necessary for the department or another administrative, regulatory, or law enforcement agency of another jurisdiction to enforce the provisions of this chapter, the law of another state, or the United States, a consumer complaint and other information concerning an investigation or examination shall remain confidential after the investigation or examination ceases to be active to the extent that disclosure would:

(1) jeopardize the integrity of another active investigation;

(2) reveal personal financial information;

(3) reveal the identity of a confidential source; or

(4) reveal investigative techniques or procedures.

(F) This section does not prevent or restrict:

(1) furnishing records or information to an appropriate regulatory, prosecutorial, or law enforcement agency, provided the agency adheres to the confidentiality provisions of this chapter;

(2) furnishing records or information to an appropriate regulator or independent third party who has been approved by the department to conduct examinations or otherwise support the department in its responsibilities pursuant to this chapter, provided the independent third party adheres to the confidentiality provisions of this chapter; or

(3) reporting suspicious activity, with supporting documents and information, to appropriate regulatory, law enforcement, or prosecutorial agencies.

Section 1‑36‑310. (A) Whenever it appears that a person has violated, or that reasonable cause exists to believe that a person is likely to violate, this chapter or a rule adopted pursuant to this chapter, the following officials may bring an action for injunctive relief to enjoin the violation or enforce compliance:

(1) the director, his designee, or a solicitor with jurisdiction; or

(2) the solicitor of the circuit in which the violation is alleged to have occurred.

(B) In addition to the authority granted to the director under this section, the director may bring an action for injunctive relief if he has reason to believe that a person has violated, or is likely to violate, an order issued pursuant to this chapter.

(C) On a proper showing, the court may issue a restraining order, an order freezing assets, a preliminary or permanent injunction, a writ of mandate, or may appoint a receiver for the defendant or the defendant’s assets.

(D) A receiver appointed by the court under this section, with approval of the court, may exercise all of the powers of the defendant’s directors, departments, partners, trustees, or persons who exercise similar powers and perform similar duties.

(E) An action brought pursuant to this section may include a claim for ancillary relief, including a claim by the director for costs or civil penalties authorized pursuant to this chapter, or for restitution for damages on behalf of the persons injured by the act constituting the subject matter of the action, and the court has jurisdiction to award that relief. Proceeds awarded under this section must be deposited in the department account and may be used for the purposes enumerated in this chapter.

(F) In addition to, or in lieu of, the enforcement of a temporary restraining order, temporary injunction, or permanent injunction against the person, the court, upon application of the department, may impound and appoint a receiver or administrator for the property, assets, and business of the defendant including, but not limited to, related books, records, documents, or papers. The receiver or administrator has all powers and duties conferred by the court as to the custody, collection, administration, winding up, and liquidation of the property and business. The court may issue orders and decrees staying all pending suits and enjoining further suits affecting the receiver’s or administrator’s custody or possession of the property, assets, and business or, with the consent of the presiding judge of the circuit, may require that all such suits be assigned to the judge appointing the receiver or administrator.

(G) In addition to, or in lieu of, other remedies provided under this chapter, the department may apply to the court hearing the matter for an order directing the defendant to make restitution of those sums shown by the department to have been obtained in violation of this chapter.

Section 1‑36‑315. If the director has reason to believe that an unlicensed person has engaged in, or is likely to engage in, an activity for which a license is required pursuant to this chapter, the director may order the person to cease and desist from the violation until the person is issued a license under this chapter. The director’s order must be issued in accordance with this chapter, unless the order is issued as an emergency order. The director may issue an emergency cease and desist order if he finds that the person’s violation, or likely violation, threatens immediate and irreparable harm to the public.

Section 1‑36‑320. (A) A person may not engage in a money services business in this State unless the person is licensed or exempted from licensure pursuant to this chapter.

(B) Only a money services business licensed pursuant to this chapter may appoint an authorized agent. A person acting as an agent for an unlicensed money services business is deemed a principal and is liable to the holder or remitter as a principal money transmitter or payment instrument seller.

(C) The department may issue and serve upon a person who violates a provision of this section a complaint seeking a cease and desist order or impose an administrative fine. Proceeds from these fines must be deposited in the department account and may be used for the purposes enumerated in this chapter.

(D) A person who violates this section, if the violation involves:

(1) currency or payment instruments exceeding three hundred dollars but less than twenty thousand dollars in a twelve‑month period, commits a felony of the third degree;

(2) currency or payment instruments totaling or exceeding twenty thousand dollars but less than one hundred thousand dollars in a twelve‑month period, commits a felony of the second degree; or

(3) currency or payment instruments totaling or exceeding one hundred thousand dollars in a twelve‑month period, commits a felony of the first degree.

(E) In addition to the penalties authorized by subsections (C) and (D), a person who has been convicted of, or entered a plea of guilty or nolo contendere to, violating this section may be sentenced to pay a fine not exceeding two hundred fifty thousand dollars, or twice the value of the currency or payment instruments, whichever is greater, except that on a second or subsequent violation of this section, the fine may not exceed five hundred thousand dollars, or triple the value of the currency or payment instruments, whichever is greater. Proceeds from these fines must be deposited in the department account and may be used for the purposes enumerated in this chapter.

(F) A person who violates this section also is liable for a civil penalty of not more than the value of the currency or payment instruments involved, or twenty five thousand dollars, whichever is greater.

(G) In a prosecution brought pursuant to this section, the common law corpus delicti rule does not apply. The defendant’s confession or admission is admissible during trial without the State having to prove the corpus delicti, if the court finds in a hearing conducted outside the presence of the jury that the defendant’s confession or admission is trustworthy. Before the court admits the defendant’s confession or admission, the State must prove by a preponderance of the evidence that there is sufficient corroborating evidence that tends to establish the trustworthiness of the statement by the defendant. Hearsay evidence is admissible during the presentation of evidence at the hearing. In making its determination, the court may consider all relevant corroborating evidence, including the defendant’s statements.

Section 1‑36‑325. (A) The director may suspend or revoke the designation of an authorized agent if the director has reason to believe that the:

(1) authorized agent has violated this chapter, a rule or order issued pursuant to this chapter, a written agreement entered into with the director or the department, or another state or federal law applicable to a money services business;

(2) authorized agent has refused to permit, or has not cooperated with, an examination or investigation under this chapter;

(3) authorized agent has engaged in fraud, knowing misrepresentation, deceit, gross negligence, or an unfair or deceptive act or practice in connection with the operation of the agent’s business on behalf of the licensee, or a transaction subject to this chapter;

(4) competence, experience, character, or general fitness of the authorized agent, principal, person in control, or responsible person of the authorized agent indicates that it is not in the public interest to permit the authorized agent to provide money services;

(5) authorized agent has engaged in an unsafe or unsound act or practice or conducted business in an unsafe and unsound manner;

(6) authorized agent, principal, or responsible person of the authorized agent is listed on the specifically designated nationals and blocked persons list prepared by the United States Department of the Treasury, Department of State, or other federal agency, foreign government, or the United Nations as a potential threat to commit terrorist acts or to fund terrorist acts; or

(7) authorized agent, principal, or responsible person of the authorized agent has been convicted of a state or federal antimoney laundering or terrorist funding law.

(B) In determining whether an authorized agent has engaged in an unsafe or unsound act, or practice, or conducted business in an unsafe or unsound manner, the director may consider the:

(1) size and condition of the authorized agent’s provision of money services;

(2) magnitude of the loss or potential loss;

(3) gravity of the violation of this chapter, rule, or order issued pursuant to this chapter;

(4) other actions taken against the authorized agent by this State, another state, or the federal government; or

(5) previous conduct of the authorized agent.

(C) The director’s order suspending or revoking the designation of an authorized agent must be issued pursuant to this chapter, unless the order is issued as an emergency order.

Section 1‑36‑330. (A) If it appears to the director that a person has engaged, is engaging, or is about to engage in an act, practice, or transaction that constitutes a violation of this chapter, a rule, or order of the director, the director may issue an order directing the person, directors, departments, employees, and agents of the person to cease and desist from engaging in the act, practice, or transaction, or doing an act in furtherance of the act, practice, or transaction, and to take appropriate affirmative action, within a reasonable period of time as prescribed by the director, to correct the conditions resulting from the act, practice, or transaction.

(B) The director may issue a cease and desist order if it is necessary to protect the interests of the licensee, the licensee’s customers, or the public.

(C) If it appears to the director that a money services business, a department, director, employee, agent, or other person participating in the conduct of the affairs of a money services business has engaged, is engaging, or is about to engage in, an act, practice, or transaction that constitutes an unsafe or unsound practice, violation of an order of the director, applicable law, rule, written agreement entered into with the director, or condition imposed in writing by the director in connection with the granting of an application or other request by a money services business, the director may issue an order directing the money services business or a director, department, employee, agent, or other person participating in the conduct of the affairs of the money services business to cease and desist from engaging in the act, practice, transaction, or doing other acts in furtherance of the act, practice, or transaction, and to take appropriate affirmative action, within a reasonable period of time as prescribed by the director, to correct the conditions resulting from the act, practice, or transaction.

(D) An order issued by the director pursuant to this section becomes effective at the time of service and remains effective and enforceable, unless it is stayed, modified, terminated, or set aside by the director or a reviewing court pursuant to this chapter.

Section 1‑36‑335. (A) The director may enter into a consent order with a person to resolve a matter arising under this chapter, rule, or order issued pursuant to this chapter.

(B) A consent order must be signed by the person to whom the order is issued, or by the person’s authorized representative, and must indicate agreement with the terms contained in the order. However, a consent order may provide that the order does not constitute an admission by a person that this chapter, a rule adopted, or order issued under this chapter has been violated.

(C) A consent order is a final order and may not be appealed.

Section 1‑36‑340. (A) After notice and hearing, the director may assess an administrative penalty against a person who:

(1) has violated this chapter, rule, or order issued pursuant to this chapter and has failed to correct the violation within thirty days after the date the department sends written notice of the violation to the person;

(2) if the person is a licensee, has engaged in conduct for which a license issued pursuant to this chapter may be suspended or revoked;

(3) has engaged in a pattern of violations; or

(4) has demonstrated wilful disregard for the requirements of this chapter, rules, or an order issued pursuant to this chapter.

(B) A violation, corrected after a person receives written notice from the department of the violation, may be considered for purposes of determining whether a person has engaged in a pattern of violations under this section or demonstrated wilful disregard under this section.

(C) The amount of the penalty may not exceed ten thousand dollars for each violation and, in the case of a continuing violation, five thousand dollars for each day that the violation continues. Each transaction in violation of this chapter and each day that a violation continues is a separate violation.

(D) In determining the amount of the penalty, the director shall consider factors that include the seriousness of the violation, the person’s compliance history, and the person’s good faith in attempting to comply with this chapter, except, if the person is found to have demonstrated wilful disregard under this section, the trier of fact shall recommend that the director impose the maximum administrative penalty permitted pursuant to this chapter.

(E) A hearing to assess an administrative penalty is considered a contested case hearing.

(F) An order imposing an administrative penalty after notice and hearing become effective and is final for purposes of collection and appeal immediately on issuance.

(G) The director may collect an administrative penalty assessed under this section:

(1) in the same manner that a money judgment is enforced judicially in this State; or

(2) if the penalty is imposed against a licensee or a licensee’s authorized agent, from the proceeds of the licensee’s security in accordance with this chapter.

(H) Monies collected under this section must be deposited in the department account and may be used for the purposes enumerated in this chapter.

Section 1‑36‑345. (A) The purpose of this section is to require the maintenance of certain records of transactions involving currency or payment instruments in order to deter the use of a money services business to conceal proceeds from criminal activity and to ensure the availability of these records for criminal, tax, or regulatory investigations or proceedings.

(B) A money transmitter shall maintain records of the following information for all inbound and outbound transmissions, which must be obtained for each money transmission, regardless of the amount:

(1) name, address, and phone number of the sender;

(2) numbered receipt or confirmation number for each transaction;

(3) address of the location or foreign affiliate where the transaction was conducted;

(4) name and address of the beneficiary or recipient;

(5) instructions or messages relating to the transmission;

(6) method of payment;

(7) time and date of the transaction;

(8) transaction amount in United States dollars;

(9) fees charged;

(10) authorized agent’s name; and

(11) authorized agent, foreign affiliate code, or other identifier as assigned by the licensee.

(C) For all transactions exceeding one thousand dollars, or if the licensee suspects that the transaction involves the proceeds of unlawful activity, or if the licensee believes the transfer is designed to evade the reporting requirements of this section or federal statute, the licensee, in addition to the items in subsection (B), shall obtain and record the:

(1) social security number, passport number, or alien registration number of the sender;

(2) name and account number of recipient’s financial institution, if applicable; and

(3) sender’s picture identification number, type, and state or country of issuance.

(D) The money services business must file a report with the department of records required by this section at the time and containing information required by rule.

(E) Every money transmitter shall maintain a schedule of all outstanding receivables due from authorized agents, to include amounts and numbers of days outstanding. This schedule must be updated, at a minimum, monthly.

(F) Every money transmitter shall maintain individual files for each authorized agent or foreign affiliate, which document the establishment and termination of these relationships. The file shall include the written contract between the money transmitter and authorized agent.

(G) Subpoenas, warrants, and other requests from regulatory, law enforcement, and prosecutorial agencies, and records related to training as required by 31 C.F.R. Section 103.125, as it existed on September 4, 2008, and must be maintained so they are retrievable.

(H) Records of all money transmissions must be maintained in an electronic format that is readily retrievable and capable of being exported to most widely available software applications, including Microsoft Excel.

(I) Multiple financial transactions must be treated as a single transaction if the licensee has knowledge that they are made by, or on behalf of, one person, and result in cash in, or cash out, totaling more than one thousand dollars during a twenty‑four hour calendar day.

(J) A money services business, employee, or agent, who files a report in good faith pursuant to this section, is not liable for loss or damage caused in whole or in part by the making, filing, or governmental use of the report, or information contained in the report.

(K) The department must retain a copy of all reports received under this section for a minimum of five years after receipt of the report; however, if a report or information contained in a report is known by the department to be the subject of an existing criminal proceeding, the report must be retained for a minimum of ten years from the date of receipt.

(L) In addition to other powers conferred upon the department to enforce and administer this chapter, the department may:

(1) bring an action in a court of competent jurisdiction to enforce or administer this section, seek an award of a civil penalty authorized by law, or other appropriate relief at law or equity;

(2) issue and serve upon a person an order requiring the person to cease and desist and take corrective action if the department finds that the person is violating, has violated, or is about to violate a provision of this section, chapter, rule, or order adopted pursuant to this chapter, or a written agreement entered into with the department related to this chapter;

(3) issue and serve upon a person an order suspending or revoking the person’s money services business license, or authorized agent designation, if the department finds that the person is violating, has violated, or is about to violate a provision of this section, chapter, rule, or order adopted pursuant to this chapter, or a written agreement entered into with the department related to this chapter;

(4) issue and serve upon a person an order of removal whenever the department finds that the person is violating, has violated, or is about to violate a provision of this section, chapter, rule, or order adopted pursuant to this chapter, or a written agreement entered into with the department related to this chapter; or

(5) impose and collect an administrative fine against a person found to have violated a provision of this section, chapter, rule, or order adopted pursuant to this chapter, or a written agreement entered into with the department related to this chapter, not exceeding ten thousand dollars a day for each wilful violation or five hundred dollars a day for each negligent violation.

(M) Except as otherwise provided in this subsection, a person who wilfully violates a provision of this section is guilty of a misdemeanor. A person who wilfully violates this section, if the violation involves currency or payment instruments:

(1) exceeding three hundred dollars but less than twenty thousand dollars in a twelve‑month period, commits a felony of the third degree;

(2) totaling or exceeding twenty thousand dollars but less than one hundred thousand dollars in a twelve‑month period, commits a felony of the second degree;

(3) totaling or exceeding one hundred thousand dollars in a twelve‑month period, commits a felony of the first degree.

(N) A person who has been convicted of, or entered a plea of guilty or nolo contendere, regardless of adjudication, to having violated subsection (M) may be sentenced to pay a fine not exceeding two hundred fifty thousand dollars, or twice the value of the currency or payment instruments, whichever is greater, except that on a second or subsequent conviction for, or plea of guilty or nolo contendere, regardless of adjudication, to a violation of subsection (M), the fine may not exceed five hundred thousand dollars, or triple the value of the currency or payment instruments, whichever is greater.

(O) A person who violates this section is also liable for a civil penalty of not more than the greater of the value of the currency or payment instruments involved, or twenty five thousand dollars.

(P) In a prosecution brought pursuant to this section, the common law corpus delicti rule does not apply. The defendant’s confession or admission is admissible during trial without the State having to prove the corpus delicti, if the court finds in a hearing conducted outside the presence of the jury that the defendant’s confession or admission is trustworthy. Before the court admits the defendant’s confession or admission, the State must prove by a preponderance of the evidence that there is sufficient corroborating evidence that tends to establish the trustworthiness of the statement by the defendant. Hearsay evidence is admissible during the presentation of evidence at the hearing. In making its determination, the court may consider all relevant corroborating evidence, including the defendant’s statements.

Section 1‑36‑350. (A) A person commits an offense if the person:

(1) receives or possesses a property except in payment of a just demand, with intent to deceive or defraud, to omit, to make or to cause to be made a full and true entry in its books and accounts, or to concur in omitting to make a material entry;

(2) embezzles, abstracts, or misapplies money, property, or a thing of value belonging to the money services business, an authorized agent, or customer with intent to deceive or defraud;

(3) makes a false entry in its books, accounts, reports, files, or documents with intent to deceive or defraud a person, or with intent to deceive the department, regulator, authorized third party appointed by the department to examine or investigate the affairs of the money services business, or authorized agent;

(4) engages in an act that violates 18 U.S.C. 1956, 18 U.S.C. 1957, 18 U.S.C. 1960, 31 U.S.C. 5324, or another law, rule, or regulation of another state, or the United States, relating to a money services business;

(5) files with the department, signs as a duly authorized representative, or delivers or discloses by other means to the department or its employees an examination report, report of condition, report of income and dividends, audit, account, statement, file, or document known by the person to be fraudulent or false as to a material matter;

(6) places among the assets of a money services business or authorized agent a note, obligation, or security that the money services business or authorized agent does not own, which is known to be fraudulent or otherwise worthless, or to represent to the department that a note, obligation, or security is the property of the money services business or authorized agent and is genuine, if it is known to be fraudulent or otherwise worthless;

(7) knowingly executes, or attempts to execute, a scheme or artifice to defraud a money services business or authorized agent, or obtain the monies, funds, credits, assets, securities, or other property owned by, or under the custody or control of, a money services business or authorized agent, by means of false or fraudulent pretenses, representations, or promises;

(8) intentionally makes a false statement, misrepresentation, or certification in a record or application filed with the department or required to be maintained under this chapter, rule, or order issued pursuant to this chapter, intentionally makes a false entry, or omits a material entry in the record or application; or

(9) knowingly engages in an activity for which a license is required under this chapter without being licensed under this chapter.

(B) A person who violates a provision of this section commits a felony of the third degree.

(C) If the director has reason to believe that a person has committed an offense under this section or another state or federal law, the director may file a criminal referral with the Attorney General or solicitor of the State or circuit in which the offense is alleged to have been committed.

(D) Nothing in this section limits the power of the State to punish a person for an act that constitutes an offense under this or another law.

(E) In addition to the other penalties enumerated in this chapter, a violation of this chapter is subject to civil and criminal forfeiture proceedings. An asset acquired from the proceeds of an unlawful act related to an activity regulated pursuant to this chapter is subject to forfeiture, including the actual money services business or its assets. If the licensee knowingly comingles illicit proceeds, or knowingly causes them to be comingled, with other untainted assets, then those assets are subject to forfeiture in total, regardless of the location of those assets as long as the unlawful activity had a nexus to this State. If there is an innocent owner interest, then the State may force a sale or recover from substitute assets. A recovery from forfeiture must be deposited in the department account and may be used for the purposes enumerated in this chapter.

Section 1‑36‑355. (A) As used in this section:

(1) ‘Knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity’ means that a person knew the property involved in the transaction represented proceeds from some form, though not necessarily which form, of activity that constitutes a felony under state or federal law, regardless of whether or not that activity is specified in item (7).

(2) ‘Conducts’ means a person initiated, concluded, or participated in initiating or concluding a transaction.

(3) ‘Transaction’ means a purchase, sale, loan, pledge, gift, transfer, transport, delivery, or other disposition, and with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of a stock, bond, certificate of deposit, or other monetary instrument, use of a safety deposit box, or other payment, transfer, or delivery by, through, or to a financial institution whether licensed or not, by whatever means effected.

(4) ‘Financial transaction’ means a transaction involving the movement of assets by wire or other means or involving one or more monetary instruments, which affects commerce, or a transaction involving the transfer of title to real property, vehicle, vessel, or aircraft, or a transaction involving the use of a financial institution that is engaged in, or the activities of which affect, commerce.

(5) ‘Monetary instruments’ means precious metals and gems, commodities that may be bartered as value between parties, coin or currency of the United States or of another country, travelers’ checks, personal checks, bank checks, money orders, investment securities in bearer form, or otherwise in a form that title passes upon delivery, and negotiable instruments in bearer form, or otherwise in a form that title passes upon delivery.

(6) ‘Financial institution’ means a financial institution as defined in 31 U.S.C. 5312 which is located in this State or has a nexus to this State.

(7) ‘Specified unlawful activity’ means a ‘racketeering activity’ as defined in 18 U.S.C. 1961.

(8) ‘Knowing’ means that a person knew or, with respect to a transaction or transportation involving more than ten thousand dollars, three thousand dollars for money services businesses, in United States currency or foreign equivalent, should have known after reasonable inquiry, unless the person has a duty to file a federal currency transaction report, IRS Form 8300, or a like report under state law and has complied with that reporting requirement in accordance with law.

(9) ‘Petitioner’ means the Director of Money Services and Financial Technologies or Department of Money Services and Financial Technologies, a local, county, state, or federal law enforcement agency, the Attorney General, his designee, or a solicitor.

(10) ‘Investigative or law enforcement department’ means a department of the State of South Carolina, a political subdivision of the State, of the United States, or of another state or political subdivision, which is empowered by law to conduct, on behalf of the government, investigations of, or to make arrests for, offenses set forth in this subsection or similar federal offenses.

(B) Notwithstanding another provision in this chapter, it is unlawful for a person:

(1) knowing that the property involved in a financial transaction represents the proceeds of a form of unlawful activity, to conduct or attempt to conduct a financial transaction that involves the proceeds of specified unlawful activity:

(a) with the intent to promote the carrying on of specified unlawful activity; or

(b) knowing that the transaction is designed in whole or in part:

(i) to conceal or disguise the nature, location, source, ownership, or control of the proceeds of specified unlawful activity; or

(ii) to avoid a transaction reporting requirement or money transmitters’ registration requirement under state law;

(2) to transport or attempt to transport a monetary instrument or funds:

(a) with the intent to promote the carrying on of specified unlawful activity; or

(b) knowing that the monetary instrument or funds involved in the transportation represent the proceeds of a form of unlawful activity, and knowing that its transportation is designed in whole or in part:

(i) to conceal or disguise the nature, location, source, ownership, or control of the proceeds of specified unlawful activity; or

(ii) to avoid a transaction reporting requirement or money transmitters’ registration requirement under state law;

(3) to conduct or attempt to conduct a financial transaction that involves property or proceeds that an investigative or law enforcement department, or someone acting under that department’s direction, represents as being derived from, or as being used to conduct or facilitate, specified unlawful activity, when the person’s conduct or attempted conduct is undertaken with the intent:

(a) to promote the carrying on of specified unlawful activity;

(b) to conceal or disguise the nature, location, source, ownership, or control of the proceeds or property believed to be the proceeds of specified unlawful activity; or

(c) to avoid a transaction reporting requirement under state law.

(C) It does not constitute a defense to a prosecution for a violation of this chapter that:

(1) a stratagem or deception, including the use of an undercover operative or law enforcement department, was employed;

(2) a facility or an opportunity to engage in conduct in violation of this act was provided; or

(3) the department, a law enforcement agency, or person acting under direction of the department or law enforcement agency, solicited a person predisposed to engage in conduct in violation of a provision of this chapter to commit a violation of this chapter in order to gain evidence against that person, provided the solicitation would not induce an ordinary law‑abiding person to violate this chapter.

(D) Notwithstanding another provision in this chapter, a person who violates this section, if the violation involves financial transactions:

(1) exceeding three hundred dollars, but less than twenty thousand dollars in a twelve‑month period, commits a felony of the third degree;

(2) totaling or exceeding twenty thousand dollars, but less than one hundred thousand dollars in a twelve‑month period, commits a felony of the second degree;

(3) totaling or exceeding one hundred thousand dollars in a twelve‑month period, commits a felony of the first degree.

(E) In addition to the penalties authorized by this chapter, a person who has been found guilty of, or who has pleaded guilty or nolo contendere to violating this section may be sentenced to pay a fine not exceeding two hundred fifty thousand dollars, or twice the value of the currency or payment instruments, whichever is greater, except that on a second or subsequent conviction, or plea of guilty or nolo contendere, regardless of adjudication, the fine may not exceed five hundred thousand dollars, or triple the value of the currency or payment instruments, whichever is greater.

(F) A person who violates this section is also liable for a civil penalty of not more than the greater of the value of the financial transactions involved or twenty five thousand dollars.

(G) If a person is alienating or disposing of monetary instruments or funds, or appears likely to, or demonstrates an intent to alienate or dispose of monetary instruments or funds used in violation of this section, or a crime listed as specified unlawful activity under this section, or monetary instruments or assets that are traceable to such a violation, the petitioner may commence a civil action in a circuit court that has jurisdiction where the monetary instruments or assets are located, or have been deposited, for a temporary injunction to prohibit a person from withdrawing, transferring, removing, dissipating, or disposing of monetary instruments or assets of equivalent value.

(1) This section governs all temporary injunctions obtained pursuant to this section. The court shall take into account any anticipated impact the temporary injunction will have on innocent third parties or businesses, balanced against the petitioner’s need to preserve the monetary instruments or funds.

(2) A temporary injunction must be granted without bond to the petitioner. However, the court may authorize a respondent to post a bond equal to the amount to be enjoined and to have the injunction dissolved.

(3) A temporary injunction is to be entered upon application of the petitioner, ex parte and without notice or opportunity for a hearing with respect to the monetary instruments or funds.

(4) A temporary order expires not more than ten days after the date on which the order is served, unless extended for good cause shown or unless the party against whom it is entered consents to an extension for a longer period.

(5) If the petitioner discovers that the funds sought to be enjoined total less than ten thousand dollars, the petitioner immediately shall inform the court and the court immediately shall dissolve the temporary injunction.

(6) At the termination of the temporary injunction, or at any time before the termination of the temporary injunction, the petitioner may:

(a) obtain a warrant or other court order and seize the monetary instruments or funds and initiate a civil forfeiture action;

(b) obtain a warrant or other court order and seize the monetary instruments or funds for a subsequent criminal prosecution; or

(c) petition the court to extend the order for a period not longer than ten days from the original order’s termination date. At the end of the termination of the ten‑day extension, the petitioner may pursue other remedies contained in this chapter; however, the petitioner may not be granted additional extensions.

(7) Upon service of the temporary order served pursuant to this section, the petitioner immediately shall notify by certified mail, return receipt requested, or by personal service, both the person or entity in possession of the monetary instruments or funds, and the owner of the monetary instruments or funds, if known, of the order entered pursuant to this section and that the lawful owner of the monetary instruments or funds being enjoined may request a hearing to contest and modify the order entered pursuant to this section by petitioning the court that issued the order, so the notice is received within seventy‑two hours.

(a) The notice shall advise that the hearing must be held within three days of the request, and the notice must state that the hearing will be set and noticed by the person against whom the order is served.

(b) The notice shall state specifically that the lawful owner has the right to produce evidence of legitimate business expenses, obligations, and liabilities including, but not limited to, employee payroll expenses verified by current unemployment compensation records, employee workers’ compensation insurance, employee health insurance, state and federal taxes, and regulatory or licensing fees only as may become due before the expiration of the temporary order.

(c) Upon determination by the court that the expenses are valid, payment of the expenses may be effected by the owner of the enjoined monetary instruments or funds only to the court‑ordered payees through court‑reviewed checks, issued by the owner of, and the person or entity in possession of, the enjoined monetary instruments or funds. Upon presentment, the person or entity in possession of the enjoined funds or monetary instruments shall honor only the payment of the check to the court‑ordered payee.

(8) Only the lawful owner or the account holder of the monetary instruments or funds being enjoined may request a hearing to contest the order entered pursuant to this section by petitioning the court that issued the order. A hearing must be held within three days after the request or as soon as practicable after the request and before the expiration of the temporary order. The hearing must be set and noticed by the lawful owner of the monetary instruments or funds or by the owner’s attorney. Notice of the hearing must be provided to the petitioner who procured the temporary injunction pursuant to the South Carolina Rules of Civil Procedure but not less than twenty‑four hours before the scheduled hearing. The court may receive and consider at a hearing held pursuant to this subsection, evidence and information that would be inadmissible under the South Carolina Rules of Evidence. A proceeding under this subsection is governed by the South Carolina Rules of Civil Procedure.

(H) The petitioner may request issuance of a warrant authorizing the seizure of property, monetary instruments, or funds subject to civil forfeiture in the same manner as provided for search warrants under South Carolina Code.

(1) Delayed notice search warrants as described and authorized by the Fourth Circuit Court of the United States also must be authorized under this chapter.

(2) A financial institution that receives a seizure warrant pursuant to this section, temporary injunction, or other court order, may deduct from the account the funds necessary to pay an electronic transaction or check presented for payment where the electronic transaction was initiated or the check deposited prior to the time the seizure order was served on the financial institution.

(I) A financial institution, licensed money services business, or other person served with and complying with the terms of a warrant, temporary injunction, or other court order, including a subpoena issued pursuant to this chapter, obtained in the course of an investigation of a violation of this section, including a crime listed as specified unlawful activity under this section or a felony violation of South Carolina Code, has immunity from criminal liability and is not liable to a person for lawful action taken in complying with the warrant, temporary injunction, or other court order, including a subpoena issued pursuant to this chapter. If a subpoena or order issued pursuant to this chapter contains a nondisclosure provision, a financial institution, licensed money services business, employee, or department of a financial institution or licensed money services business, or other person may not notify, directly or indirectly, a customer of that financial institution or money services business whose records are being sought by the subpoena, or another person named in the subpoena, about the existence or the contents of that subpoena or about information that has been furnished to the prosecuting agency that issued the subpoena, or other law enforcement department named in the subpoena in response to the subpoena.

(J) In a prosecution brought pursuant to this chapter, the common law corpus delicti rule does not apply. The defendant’s confession or admission is admissible during trial without the State’s having to prove the corpus delicti if the court finds in a hearing conducted outside the presence of the jury that the defendant’s confession or admission is trustworthy. Before the court admits the defendant’s confession or admission, the State must prove by a preponderance of the evidence that there is sufficient corroborating evidence that tends to establish the trustworthiness of the statement by the defendant. Hearsay evidence is admissible during the presentation of evidence at the hearing. In making its determination, the court may consider all relevant corroborating evidence, including the defendant’s statements.

Section 1‑36‑360. (A) All persons engaged in a trade or business, who receive more than ten thousand dollars in currency, three thousand dollars for money services businesses, including foreign currency, in one transaction, or who receive this amount through two or more related transactions, must complete and file the reports required by this chapter, or as may be prescribed by rule. A person who wilfully fails to comply with the reporting requirements of this chapter is guilty of a misdemeanor, and may be fined in an amount not exceeding two hundred fifty thousand dollars or twice the value of the amount of the currency transaction involved, whichever is greater. For a second or subsequent conviction of a violation of the provisions of this subsection, the fine may not exceed five hundred thousand dollars or triple the value of the amount of the currency transaction involved, whichever is greater.

(B) The department shall enforce compliance with the provisions of subsection (A) and is to be the custodian of all information and documents filed pursuant to subsection (A). This information and documents are confidential; however, the department may provide a report filed under this section, or information contained in this section, to federal, state, and local law enforcement and prosecutorial agencies. The information is also subject to disclosure pursuant to subpoena.

(C) The department may adopt rules and guidelines to administer and enforce these reporting requirements.

Section 1‑36‑365. Notwithstanding another provision of law, for purposes of this section, each individual currency transaction exceeding ten thousand dollars, three thousand dollars for money services businesses, whether consisting of single or multiple structured transactions, involving the movement of funds in excess of ten thousand dollars, three thousand dollars for money services businesses, constitutes a separate, punishable offense.

Section 1‑36‑370. (A) A person may not, for the purpose of evading the reporting and registration requirements, when some portion of the activity by that person occurs in this State:

(1) cause or attempt to cause a person or financial institution in this State to fail to file a report or registration required pursuant to this chapter;

(2) cause or attempt to cause a person or financial institution in this State to file a report required pursuant to this chapter, which contains a material omission or misstatement of fact; or

(3) structure or assist in structuring, or attempt to structure or assist in structuring, a financial transaction with or involving one or more financial institutions in this State.

(B) A person may not, for the purpose of evading the reporting or registration requirements, when some portion of the activity by that person occurs in this State:

(1) fail to file a report or registration required pursuant to this chapter;

(2) file a report required pursuant to this chapter, which contains a material omission or misstatement of fact; or

(3) structure or assist in structuring, or attempt to structure or assist in structuring, any importation or exportation of currency or monetary instruments or funds to, from, or through financial institutions in this State.

(D)(1) A person who violates this section, if the violation involves financial transactions:

(a) exceeding three hundred dollars, but less than twenty thousand dollars in a twelve‑month period, commits a felony of the third degree;

(b) totaling or exceeding twenty thousand dollars, but less than one hundred thousand dollars in a twelve‑month period, commits a felony of the second degree;

(c) totaling or exceeding one hundred thousand dollars in a twelve‑month period, commits a felony of the first degree.

(2) In addition to the penalties authorized by this section, a person who has been found guilty of, or who has pleaded guilty or nolo contendere to, violating this section may be sentenced to pay a fine not exceeding two hundred fifty thousand dollars, or twice the value of the currency or payment instruments, whichever is greater, except that on a second or subsequent conviction, or plea of guilty or nolo contendere, regardless of adjudication, the fine may not exceed five hundred thousand dollars, or triple the value of the financial transactions, whichever is greater.

(3) A person who violates this section is also liable for a civil penalty of not more than the greater of the value of the financial transactions involved or twenty five thousand dollars.

(E) In addition to the penalties specified in this chapter, a violation of this chapter is subject to civil and criminal forfeiture proceedings. A traceable illicit proceed or asset acquired from the proceeds of an unlawful act related to anything regulated pursuant to this section or chapter is subject to forfeiture, to include the actual money services business or any assets of it. If illicit proceeds are knowingly comingled, or knowingly caused to be comingled, through the use of an unwitting individual or other measure, with other untainted assets then these assets are subject to forfeiture in total, regardless of the location of these assets as long as the unlawful activity had a nexus to this State. If there is an innocent owner interest then the State may force a sale or recover from substitute assets. A recovery from forfeiture must be deposited in the department account for expenditure by the department.

(F) Proof that a person engaged for monetary consideration in a money services business, and who is transporting more than ten thousand dollars in currency, or the foreign equivalent, without being licensed as a money services business, or designated as an authorized agent of a licensee, gives rise to an inference that the transportation was done with knowledge of the licensure requirements of this chapter and the reporting requirements of this chapter.

Section 1‑36‑375. The penalty provisions of this chapter, including those directed at reporting violations or the conduct or attempted conduct of unlawful financial transactions, the unlawful transportation or attempted transportation of monetary instruments, and the concealment of unlawful proceeds or their ownership are not applicable to the department or law enforcement departments who engage in aspects of this activity for bona fide authorized undercover purposes in the course of or in relation to an investigation, intelligence gathering, or active prosecution.

Section 1‑36‑380. A person may not use the resources of the courts of this State in furtherance of a claim in a related civil forfeiture action or a claim in a third‑party proceeding in a related forfeiture action if that person purposely leaves the jurisdiction of this State or the United States, declines to enter or reenter this State to submit to its jurisdiction, or otherwise evades the jurisdiction of the court in which a criminal case is pending against the person.

Section 1‑36‑385. (A) The department and other law enforcement agencies that investigate alleged violations of this chapter may pay rewards to an individual who provides original information that leads to a recovery of a criminal fine, civil penalty, or forfeiture.

(B) The department or other law enforcement agency shall determine the amount of a reward pursuant to this section. The amount of reward may not exceed the amount authorized for similar activity by a federal law or guideline in effect at the time the information was provided.

(C) A department or employee of the United States, a state or local government, or a foreign government, which in the performance of official duties, provides information described in subsection (A), is not eligible for a reward under this section.

(D) Payment of a reward does not affect the admissibility of testimony in a court proceeding.

Section 1‑36‑390. (A) Pursuant to the investigation of an alleged violation of this chapter, the department may enter into agreements and pay a reward to an individual or entity who provides original information that leads to a recovery of a criminal fine, civil penalty, or forfeiture based in whole, or in part, upon a violation of federal law or the laws of this State.

(B) The director shall determine the amount of a reward issued pursuant to this section. The director is authorized to exceed the general limits of informant rewards when the criminal fine, civil penalty, or forfeiture amount received by the State warrants an upward departure from these limits. Notwithstanding another provision of law, rewards paid under this section must be paid only from seized assets awarded by the court. Funds seized by the department pursuant to this chapter must be placed in the department account, excluding any rewards paid as provided in this section and may be used for purposes stated in this chapter.

(C) A department or employee of the United States, a state or local government, or a foreign government, who in the performance of official duties, provides information described in subsection (A), is not eligible for a reward under this section.

(D) Payment of a reward does not affect the admissibility of testimony in a court proceeding.

Section 1‑36‑395. (A) This section applies to nonemergency orders issued by the director, and an order to which this section applies becomes effective only after notice and an opportunity for hearing. The order must:

(1) state the grounds on which the order is based;

(2) to the extent applicable, state the action or violation from which the person subject to the order must cease and desist, or the affirmative action the person must take to correct a condition resulting from the violation, or which is otherwise appropriate;

(3) be delivered by personal delivery or sent by certified mail, return receipt requested, to the person against whom the order is directed at the person’s last known address;

(4) state the effective date of the order, which may not be before the twenty‑first day after the date the order is delivered or mailed; and

(5) include a notice that a person may file a written request for a hearing on the order with the director not later than the twentieth day after the date the order is delivered or mailed.

(B) Unless the director receives a written request for hearing from the person against whom the order is directed not later than the twentieth day after the date the order is delivered or mailed, the order takes effect as stated in the order and is final against, and nonappealable by, that person from that date.

(C) A hearing on the order must be held not later than the forty‑fifth day after the date the director receives the written request for the hearing unless the administrative law judge extends the period for good cause, or the parties agree to a later hearing date.

(D) An order that has been affirmed or modified after a hearing becomes effective and is final for purposes of enforcement and appeal immediately on issuance.

Section 1‑36‑400. (A) This section applies to an emergency order issued by the director. The director may issue an emergency order, without prior notice, and an opportunity for hearing, if the director finds that:

(1) the action, violation, or condition that is the basis for the order has:

(a) caused, or is likely to cause, the insolvency of the license holder;

(b) caused, or is likely to cause the substantial dissipation of the licensee’s assets or earnings;

(c) seriously weakened, or is likely to seriously weaken, the condition of the license holder; or

(d) seriously prejudiced, or is likely to seriously prejudice, the interests of the license holder, a purchaser of the license holder’s money services, or the public; and

(2) immediate action is necessary to protect the interests of the licensee, a purchaser of the licensee’s money services, or the public.

(B) In connection with and as directed by an emergency order, the director may seize a licensee’s or authorized agent’s records and assets that relate to the licensee’s money services business.

(C) An emergency order must:

(1) state the grounds on which the order is based;

(2) advise the person against whom the order is directed that the order takes effect immediately, and, to the extent applicable, require the person to immediately cease and desist from the conduct or violation that is the subject of the order, or to take the affirmative action stated in the order as necessary to correct a condition resulting from the conduct or violation, or as otherwise appropriate;

(3) be delivered by personal delivery or sent by certified mail, return receipt requested, to the person against whom the order is directed at the person’s last known address; and

(4) include a notice that a person may request a hearing on the order by filing a written request for hearing with the director not later than the fifteenth day after the date the order is delivered or mailed.

(D) An emergency order takes effect as soon as the person against whom the order is directed has actual or constructive knowledge of the issuance of the order.

(E) A license holder, or authorized agent, against whom an emergency order is directed must submit a written certification to the director, signed by the license holder, or authorized agent, and their principals and responsible individuals, as applicable, and each person named in the order, stating that each person has received a copy of and has read and understands the order.

(F) Unless the director receives a written request for a hearing from a person against whom an emergency order is directed within fifteen days after the date the order is delivered or mailed, the order is final and nonappealable as to that person on the sixteenth day after the date the order is delivered or mailed.

(G) A request for a hearing does not stay an emergency order.

(H) A hearing on an emergency order takes precedence over any other matter pending before the director, and must be held within ten days after the date the director receives the written request for hearing, unless the administrative law judge extends the period for good cause or the parties agree to a later hearing date.

(I) An emergency order that has been affirmed or modified after a hearing is final for purposes of enforcement and appeal.

Section 1‑36‑405. (A) Other than in a telephonic transaction conducted on a telephone that is not designated for use in currency transmission transactions by a currency transmission business, at the time of a currency transmission transaction to another country the currency transmission business shall provide a receipt to the customer. The receipt must:

(1) clearly state the amount of currency presented for transmission and any fees charged by the currency transmission business; and

(2) provide a toll‑free telephone number or a local number that a customer can access at no charge to receive information about a currency transmission.

(B) If the rate of exchange for a currency transmission to be paid in the currency of another country is fixed by the currency transmission business for a transaction at the time the currency transmission is initiated, the receipt must also disclose:

(1) the rate of exchange for that transaction;

(2) the amount to be paid in the foreign currency; and

(3) the period, if any, in which the payment must be made in order to qualify for the fixed rate of exchange.

(C) If the rate of exchange for a currency transmission to be paid in the currency of another country is not fixed at the time the currency transmission is initiated, the receipt also must disclose that the rate of exchange for the transaction will be set at the time the recipient of the currency transmission receives the funds in the foreign country.

(D) If the customer requests, the currency transmission business must provide the required disclosures before completing the transaction.

(E) The director may levy a fine not to exceed two thousand dollars per violation against a person who knowingly violates this chapter.

(F) The director is entitled to recover reasonable expenses incurred in obtaining injunctive relief, civil penalties, or both, under this section, including reasonable attorney’s fees, court costs, and investigatory costs.

Section 1‑36‑410. (A) A state chartered depository institution has no obligation to conduct a review of the compliance by a licensee under this chapter, with the licensee’s obligations under 31 U.S.C., Chapter 53, provided:

(1) the licensee is licensed to engage in money services under this chapter and the state chartered depository institution takes reasonable steps to verify this fact;

(2) the licensee shows proof that it is duly registered as a money services business with FinCEN of the United States Department of the Treasury;

(3) the licensee certifies to the state chartered depository institution that it has a program that fulfills the requirements of subsection (h)(1) of 31 U.S.C. 5318 and its implementing regulations; and

(4) that the certifications that are mentioned in subsections (1), (2) and (3) above are renewed on an annual basis on a form to be prescribed by the director.

(B) A licensee making a material misrepresentation in a certification required by this section must be subject to the civil or criminal penalties prescribed pursuant to this chapter. A person who knowingly makes, or knowingly causes another person to make a material misrepresentation or omission must be subject to criminal prosecution and all penalties provided by law.

(C) Nothing in this section must be construed to require a state chartered depository institution to establish, maintain, administer or manage an account for a licensee.

(D) Nothing in this section must be construed to absolve a state chartered depository institution of its responsibility to know its customer and to appropriately monitor the licensee account to insure related activity is commensurate with expected account activity.

(E) Nothing is this section must be construed to prevent a state chartered depository institution from requiring any information it deems necessary concerning a licensee’s compliance program before opening an account for said licensee.

(F) A state chartered depository institution has no liability for the failure of a licensee to fulfill its obligations under 31 U.S.C., Chapter 53.

(G) State chartered depository institutions will notify the director when they open an account for a money services business and will provide notification to the director concerning any suspicious activities associated with these accounts in a manner prescribed by the director.

Section 1‑36‑415. No person acting, or who has acted, in good faith reliance upon a rule, order, or advisory opinion issued by the director or the department must be subject to any criminal, civil, or administrative liability for that action, notwithstanding a subsequent decision by a court of competent jurisdiction invalidating the rule, order, or advisory opinion. In the case of an order or an advisory opinion that is not of general application, no person other than the person to whom the order or advisory opinion was issued is entitled to rely upon it, except upon material facts or circumstances that are substantially the same as those upon which the order or advisory opinion was issued.”

SECTION 2. Chapter 7, Title 14 of the 1976 Code is amended by adding:

“Article 14

Special Investigative Grand Juries

Section 14‑7‑1580. (A) Notwithstanding another provision of law, when a circuit solicitor, in his discretion, has reason to believe that a special investigative grand jury would assist in the investigation and prosecution of criminal activity involving a violation of or a conspiracy to violate a criminal law as delineated in Section 14‑7‑1630 or a criminal law that carries a maximum sentence of fifteen years or more, anywhere in the solicitor’s circuit, the circuit solicitor may apply to a circuit court judge for an order to have a circuit‑wide, special investigative grand jury empaneled. It will remain empaneled for twelve months. The circuit solicitor may petition the court for an order extending the special investigative grand jury’s work for an additional six months. This extension only may be granted twice.

(B) The application must be in writing and state that a special investigative grand jury is needed to investigate criminal activity under the jurisdiction of the special investigative grand jury and the circuit solicitor.

(C) The special investigative grand jury has jurisdiction to investigate criminal activity throughout the circuit.

(D) Once empaneled, the special investigative grand jury may be convened at any time during its term by the circuit solicitor to investigate crime under its jurisdiction.

Section 14‑7‑1583. (A) The circuit solicitor, or his designee, the alternate grand jurors, the witness under examination, and a stenographer may be present while the special investigative grand jury is in session.

(B) A circuit court judge, upon the request of the circuit solicitor or the grand jury, may order that an interpreter, security officers, and other persons as the judge may determine are necessary to the presentation of the evidence may be present while the special investigative grand jury is in session.

(C) All persons who are to be present while the grand jury is in session must be identified in the record, must be sworn to secrecy, and shall not disclose any information pertaining to the grand jury.

(D) No person other than the permanent grand jurors may be present during the deliberations or voting of the grand jury.

Section 14‑7‑1585. The special investigative grand jury of eighteen persons must be composed of citizens of the counties that make up the circuit. In order to empanel the grand jury, the clerks of court of the counties comprising the circuit will summon a total of one hundred citizens proportionate to each county’s percentage of the total population in the circuit. Otherwise, a special investigative grand jury convened pursuant to this article must be selected and empaneled in the same manner pursuant to the relevant provisions of Article 3 regarding the drawing and summoning of jurors in circuit courts. The grand jury panel shall report to the courthouse of the county with the largest population in the circuit. Once the special investigative grand jury is empaneled, it will be the circuit solicitor’s responsibility to provide a meeting place for the special investigative grand jury.

Section 14‑7‑1590. The Circuit Solicitor’s Office is responsible for all costs associated with the empanelment of the special investigative grand jury.

Section 14‑7‑1595. (A) When a special circuit investigative grand jury is convened pursuant to the provisions of this article, the circuit solicitor is authorized to:

(1) subpoena witnesses to give sworn testimony to a certified court reporter before the special investigative grand jury; and

(2) be present to examine witnesses before the special investigative grand jury and to give legal advice to the special investigative grand jury regarding matters before it.

(B) The finding and return of indictments and the form of an indictment returned by a special investigative grand jury convened pursuant to the provisions of this article must be in the same manner and form as indictments returned by the county or state grand jury.

(C) This article may not be construed to repeal or amend an existing statute regarding the formation, function, duties, or responsibilities of the county or state grand jury.

Section 14‑7‑1598. The Clerk of Court for the most populated county in the circuit, upon the request of the circuit solicitor, or his designee, shall issue subpoenas or subpoenas duces tecum to compel individuals, documents, or other materials to be brought from anywhere in this State to the special investigative grand jury. In addition, a special investigative grand jury may proceed in the same manner as provided by the subpoena rules of the South Carolina Rules of Civil Procedure and Sections 19‑9‑10 through 19‑9‑130, except when either is inconsistent with the provisions of this article; provided the subpoena rules of the South Carolina Rules of Civil Procedure and Sections 19‑9‑10 through 19‑9‑130 are not considered a limitation upon this section, but supplemental to it. The subpoenas and subpoenas duces tecum may be for investigative purposes and for the retention of documents or other materials so subpoenaed for proper criminal proceedings. A law enforcement officer with appropriate jurisdiction is empowered to serve these subpoenas and subpoenas duces tecum and receive these documents and other materials for return to a special investigative grand jury. A person violating a subpoena or subpoena duces tecum issued pursuant to this article, or who fails to fully answer all questions put to him before proceedings of a special investigative grand jury when the response to it is not privileged or otherwise protected by law, including the granting of immunity, may be punished by the presiding judge for contempt. When a violation or failure to answer is alleged to have occurred, the circuit solicitor or his designee may petition the presiding judge to compel compliance by the person alleged to have committed the violation or who has failed to answer. If the presiding judge considers compliance is warranted, he may order this compliance and may hold the individual in contempt when the compliance does not occur.”

SECTION 3. Section 14‑7‑1680 of the 1976 Code, as last amended by Act 335 of 1992, is further amended to read:

“Section 14‑7‑1680. The clerk of the ~~state grand jury~~court, upon the request of the ~~Attorney General~~solicitor, or his designee, shall issue subpoenas or subpoenas duces tecum to compel individuals, documents, or other materials to be brought from anywhere in ~~this State to a state grand jury~~the jurisdiction of the solicitor to a designated place in the county from which the subpoena was issued. In addition, ~~a state grand jury~~the solicitor may proceed in the same manner as provided by the subpoena rules of the South Carolina Rules of Civil Procedure and Sections 19‑9‑10 through 19‑9‑130, except where either is inconsistent with the provisions of this article; provided the subpoena rules of the South Carolina Rules of Civil Procedure and Sections 19‑9‑10 through 19‑9‑130 are not considered a limitation upon this section, but supplemental ~~thereto~~to it. The subpoenas and subpoenas duces tecum may be for investigative purposes and for the retention of documents or other materials so subpoenaed for proper criminal proceedings. ~~Any~~A law enforcement officer with appropriate jurisdiction is empowered to serve these subpoenas and subpoenas duces tecum and receive these documents and other materials for return to ~~a state grand jury~~the solicitor. ~~Any~~A person violating a subpoena or subpoena duces tecum issued pursuant to this article, or who fails to fully answer all questions put to him before proceedings of ~~a state grand jury~~the solicitor where the response ~~thereto~~to these questions is not privileged or otherwise protected by law, including the granting of immunity as authorized by Section 14‑7‑1760, may be punished by the presiding judge for contempt. To this end, where the violation or failure to answer is alleged to have occurred, the ~~Attorney General~~solicitor, or his designee, may petition the presiding judge to compel compliance by the person alleged to have committed the violation or who has failed to answer. If the presiding judge considers compliance is warranted, he may order this compliance and may punish the individual for contempt where the compliance does not occur.

~~The clerk of the state grand jury also may issue subpoenas and subpoenas duces tecum to compel individuals, documents, or other materials to be brought from anywhere in this State to the trial of any indictment returned by a state grand jury or the trial of any civil forfeiture action arising out of an investigation conducted by a state grand jury.~~”

SECTION 4. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 5. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 6. This act takes effect upon approval by the Governor.

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