

Senate Study Bill 3110 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
INSURANCE AND FINANCIAL
SERVICES BILL)

A BILL FOR

1 An Act relating to money transmission services, providing
2 penalties, and including effective date and retroactive
3 applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 533C.102, subsection 2, Code 2024, is
2 amended to read as follows:

3 2. "*Authorized delegate*" means a person a licensee
4 designates to provide money ~~services~~ transmission on behalf of
5 the licensee.

6 Sec. 2. Section 533C.103, Code 2024, is amended by adding
7 the following new subsection:

8 NEW SUBSECTION. 21. A person appointed as an agent of a
9 payor for purposes of providing payroll processing services for
10 which the agent would otherwise need to be licensed, provided
11 all of the following apply:

12 a. There is a written agreement between the payor and the
13 agent that directs the agent to provide payroll processing
14 services on the payor's behalf.

15 b. The payor holds the agent out to employees and other
16 payees as providing payroll processing services on the payor's
17 behalf.

18 c. The payor's obligation to a payee, including an employee
19 or any other party entitled to receive funds via the payroll
20 processing services provided by the agent, shall not be
21 extinguished if the agent fails to remit the funds to the
22 payee.

23 Sec. 3. NEW SECTION. 533C.901 **Suspension and revocation —**
24 **receivership.**

25 The superintendent may suspend or revoke a licensee's
26 license, place a licensee in receivership, or order a licensee
27 to revoke the designation of an authorized delegate if any of
28 the following apply:

29 1. The licensee violates this chapter, a rule adopted under
30 this chapter, or an order issued under this chapter.

31 2. The licensee does not cooperate with an examination or
32 investigation conducted by the superintendent.

33 3. The licensee engages in fraud, intentional
34 misrepresentation, or gross negligence.

35 4. As a result of the licensee's willful misconduct or

1 willful blindness, an authorized delegate is convicted of a
2 violation of a state or federal anti-money laundering statute,
3 or violates this chapter, a rule adopted under this chapter, or
4 an order issued under this chapter.

5 5. The competence, experience, character, or general
6 fitness of the licensee, authorized delegate, person in control
7 of a licensee, or key individual of the licensee or authorized
8 delegate indicates that it is not in the public interest to
9 permit the person to provide money transmission.

10 6. The licensee engages in an unsafe or unsound practice.
11 In determining whether a licensee is engaging in an unsafe or
12 unsound practice, the superintendent may consider the size and
13 condition of the licensee's money transmission, the magnitude
14 of any losses, the gravity of any violations of this chapter,
15 and the previous conduct of any persons involved.

16 7. The licensee is insolvent, suspends payment of the
17 licensee's obligations, or makes a general assignment for the
18 benefit of the licensee's creditors.

19 8. The licensee does not remove an authorized delegate after
20 the superintendent issues and serves upon the licensee a final
21 order finding that the authorized delegate has violated this
22 chapter, a rule adopted under this chapter, or an order issued
23 under this chapter.

24 Sec. 4. NEW SECTION. 533C.902 **Suspension and revocation of**
25 **authorized delegates.**

26 1. The superintendent may issue an order suspending or
27 revoking the designation of an authorized delegate if the
28 superintendent finds any of the following apply:

29 a. The authorized delegate violated this chapter, a rule
30 adopted under this chapter, or an order issued under this
31 chapter.

32 b. The authorized delegate failed to cooperate with an
33 examination or investigation by the superintendent.

34 c. The authorized delegate engaged in fraud, intentional
35 misrepresentation, or gross negligence.

1 *d.* The authorized delegate was convicted of a violation of a
2 state or federal anti-money laundering statute.

3 *e.* The competence, experience, character, or general
4 fitness of the authorized delegate or a person in control of
5 the authorized delegate indicates that it is not in the public
6 interest to permit the authorized delegate to provide money
7 transmission.

8 *f.* The authorized delegate is engaging in an unsafe or
9 unsound practice. In determining whether an authorized
10 delegate is engaging in an unsafe or unsound practice, the
11 superintendent may consider the size and condition of the
12 authorized delegate's provision of money transmission; the
13 magnitude of any losses; the gravity of any violations of this
14 chapter, a rule adopted under this chapter, or an order issued
15 under this chapter; and the previous conduct of the authorized
16 delegate.

17 2. An authorized delegate may apply for relief from a
18 suspension or revocation of designation as an authorized
19 delegate according to procedures prescribed by the
20 superintendent.

21 Sec. 5. NEW SECTION. 533C.903 **Orders to cease and desist.**

22 1. *a.* If the superintendent determines that a violation
23 of this chapter, a rule adopted under this chapter, or an
24 order issued under this chapter by a licensee or authorized
25 delegate is likely to cause immediate and irreparable harm
26 to the licensee, the licensee's customers, or the public, or
27 cause insolvency or significant dissipation of assets of the
28 licensee, the superintendent may issue an order requiring the
29 licensee or authorized delegate to cease and desist from the
30 violation.

31 *b.* The superintendent may issue an order for a licensee to
32 cease and desist from providing money transmission through an
33 authorized delegate that is the subject of a separate order by
34 the superintendent.

35 2. *a.* If the superintendent has reason to believe that a

1 person has violated or is violating section 533C.301, 533C.501,
2 or 533C.502, the superintendent may issue an order requiring
3 the person to show cause why an order to cease and desist the
4 violation should not be issued.

5 *b.* In an emergency under this subsection, the superintendent
6 may petition the district court for the issuance of a temporary
7 restraining order ex parte pursuant to the rules of civil
8 procedure.

9 3. An order to cease and desist becomes effective upon
10 service of the order upon the person, licensee, or authorized
11 delegate.

12 4. An order to cease and desist remains effective and
13 enforceable pending the completion of an administrative
14 proceeding pursuant to section 533C.908.

15 5. A person, licensee, or an authorized delegate who is
16 served with an order to cease and desist under this section may
17 petition the appropriate court for a judicial order setting
18 aside, limiting, or suspending the enforcement, operation,
19 or effectiveness of the order pending the completion of an
20 administrative proceeding pursuant to section 533C.908.

21 6. An order to cease and desist shall expire ten days after
22 the order is issued unless the superintendent commences an
23 administrative proceeding pursuant to section 533C.908.

24 **Sec. 6. NEW SECTION. 533C.904 Consent orders.**

25 The superintendent may enter into a consent order at any
26 time with a person to resolve a matter arising under this
27 chapter, a rule adopted under this chapter, or an order issued
28 under this chapter. A consent order must be signed by the
29 person to whom the consent order is issued, or by the person's
30 authorized representative, and must indicate agreement with the
31 terms contained in the order. A consent order may provide that
32 the order does not constitute an admission by the person that
33 the person violated this chapter, a rule adopted under this
34 chapter, or an order issued under this chapter.

35 **Sec. 7. NEW SECTION. 533C.905 Investigations.**

1 1. The attorney general or a county attorney may conduct an
2 investigation within or outside of this state to determine if
3 a licensee, an authorized delegate, or a person engaged in a
4 trade or business has failed to file a report required by this
5 chapter, or has engaged or is engaging in any act, practice, or
6 transaction that constitutes a violation of this chapter.

7 2. Upon presentation of a subpoena from a prosecuting
8 attorney, a licensee, an authorized delegate, or a financial
9 institution shall make its books and records available to the
10 attorney general or county attorney during normal business
11 hours for inspection and examination in connection with an
12 investigation pursuant to this section.

13 Sec. 8. NEW SECTION. 533C.906 **Civil penalties.**

14 The superintendent may assess a civil penalty against a
15 person who violates this chapter, a rule adopted under this
16 chapter, or an order issued under this chapter in an amount
17 not to exceed one thousand dollars per day for each day the
18 violation is outstanding, plus the state's costs and expenses
19 for the investigation and prosecution of the matter, including
20 reasonable attorney fees.

21 Sec. 9. NEW SECTION. 533C.907 **Criminal penalties.**

22 1. A person who is not licensed under this chapter and
23 who knowingly engages in an activity for which a license is
24 required under this chapter commits an aggravated misdemeanor.

25 2. A person commits a class "C" felony, and is subject to a
26 civil penalty of three times the value of the property involved
27 in the transaction, or, if no transaction is involved, a civil
28 penalty of five thousand dollars, if the person does any of the
29 following:

30 a. With the intent to disguise the fact that money or
31 a payment instrument is the proceeds of criminal conduct,
32 or with the intent to promote, manage, establish, carry on,
33 or facilitate the promotion, management, establishment, or
34 carrying on of any criminal conduct, the person knowingly
35 furnishes or provides any false, inaccurate, or incomplete

1 information to a licensee, authorized delegate, financial
2 institution, person engaged in a trade or business, or any
3 officer, employee, or their agent, or to the attorney general
4 or department of public safety, or knowingly conceals a
5 material fact in connection with a transaction for which a
6 report is required to be filed pursuant to this chapter.

7 *b.* With the intent to disguise the fact that money or
8 a payment instrument is the proceeds of criminal conduct,
9 or with the intent to promote, manage, establish, carry on,
10 or facilitate the promotion, management, establishment, or
11 carrying on of any criminal conduct, or with the intent to
12 evade the making or filing of a report required under this
13 chapter, or with the intent to cause the making or filing of
14 a report that contains a material omission or misstatement of
15 fact, the person conducts or structures a transaction or series
16 of transactions by or through one or more licensees, authorized
17 delegates, financial institutions, or persons engaged in a
18 trade or business.

19 3. A person who intentionally makes a false statement,
20 misrepresentation, or false certification in a record filed
21 or required to be maintained under this chapter, or who
22 intentionally makes a false entry or omits a material entry in
23 such a record commits a class "D" felony.

24 4. Notwithstanding any provision of law to the contrary,
25 each violation of this section constitutes a separate,
26 punishable offense.

27 Sec. 10. NEW SECTION. **533C.908 Administrative proceedings.**

28 1. Except as otherwise provided in section 533C.903, the
29 superintendent shall not suspend or revoke a license, place a
30 licensee in receivership, issue an order to cease and desist,
31 suspend or revoke the designation of an authorized delegate, or
32 assess a civil penalty without notice and an opportunity to be
33 heard.

34 2. The superintendent shall hold a hearing when requested by
35 an applicant whose application for a license is denied.

1 3. All administrative proceedings under this chapter shall
2 be conducted in accordance with chapter 17A.

3 Sec. 11. NEW SECTION. 533C.1001 **Uniformity of application**
4 **and construction.**

5 1. This chapter shall be liberally construed to effectuate
6 its remedial purposes. Civil remedies under this chapter shall
7 be supplemental and not mutually exclusive. The civil remedies
8 under this chapter do not preclude and are not precluded by any
9 other provision of law.

10 2. This chapter shall be applied and construed to effectuate
11 its general purpose to make uniform the law with respect to the
12 subject of this chapter among states enacting the same law,
13 and to make the reporting requirements regarding financial
14 transactions under Iowa law uniform with the reporting
15 requirements regarding financial transactions under federal
16 law.

17 3. The attorney general may enter into reciprocal
18 agreements with the attorney general or chief prosecuting
19 attorney of any state to effectuate the purposes of this
20 chapter.

21 Sec. 12. NEW SECTION. 533C.1002 **Financial services**
22 **licensing fund.**

23 1. A financial services licensing fund is created as a
24 separate fund in the state treasury under the authority of the
25 banking division of the department of insurance and financial
26 services. Moneys deposited in the fund shall be used to pay
27 for staffing necessary to perform examinations, audits, and
28 other duties required of the superintendent and the banking
29 division under this chapter.

30 2. The fund shall receive moneys including but not limited
31 to any fees, costs, expenses, or penalties collected pursuant
32 to this chapter.

33 3. Notwithstanding section 8.33, moneys appropriated to the
34 fund in this section that remain unencumbered or unobligated,
35 and other moneys credited to the fund, shall not revert at the

1 close of the fiscal year but shall remain in the financial
2 services licensing fund and shall remain available for
3 expenditure for the purposes designated.

4 Sec. 13. NEW SECTION. 533C.1003 **Applicability.**

5 This chapter applies to the provision of money transmission
6 on or after October 1, 2003.

7 Sec. 14. EFFECTIVE DATE. This Act, being deemed of
8 immediate importance, takes effect upon enactment.

9 Sec. 15. RETROACTIVE APPLICABILITY. The following apply
10 retroactively to July 1, 2023:

11 The sections of this Act enacting sections 533C.901,
12 533C.902, 533C.903, 533C.904, 533C.905, 533C.906, 533C.907,
13 533C.908, 533C.1001, 533C.1002, and 533C.1003, and the section
14 of this Act amending section 533C.102.

15 Sec. 16. CODE EDITOR DIRECTIVE. The Code editor shall
16 designate sections 533C.901 through 533C.908, as enacted in
17 this Act, as article 9 entitled "Enforcement", and sections
18 533C.1001 through 533C.1003, as enacted in this Act, as article
19 10 entitled "Miscellaneous Provisions".

20 EXPLANATION

21 The inclusion of this explanation does not constitute agreement with
22 the explanation's substance by the members of the general assembly.

23 This bill relates to money transmission services.

24 The bill adds an exemption from licensing for a person
25 appointed as an agent of a payor for purposes of providing
26 payroll processing services for which a license would otherwise
27 be required, if there is a written agreement between the payor
28 and the agent directing the agent to provide payroll processing
29 services, the payor holds the agent out as providing payroll
30 processing services on the payor's behalf, and the payor's
31 obligation to a payee is not extinguished if the agent fails to
32 remit the funds to the payee.

33 The bill authorizes the superintendent of banking
34 (superintendent) to suspend or revoke a license, place a
35 licensee in receivership, or order a licensee to revoke

1 the designation of an authorized delegate (delegate) in the
2 circumstances described in the bill.

3 The bill authorizes the superintendent to issue an order
4 suspending or revoking the designation of a delegate in
5 the circumstances detailed in the bill. A delegate whose
6 designation has been suspended or revoked may apply for relief
7 from the suspension or revocation according to the procedures
8 prescribed by the superintendent.

9 The bill establishes the procedure for issuance of orders
10 to cease and desist by the superintendent. The superintendent
11 may issue an order requiring a licensee or delegate to cease
12 and desist from a violation if the superintendent determines
13 that the violation is likely to cause immediate and irreparable
14 harm to the licensee, the licensee's customers, or the public,
15 or cause insolvency or significant dissipation of assets of
16 the licensee. Where a delegate is the subject of a separate
17 order by the superintendent, the superintendent may issue an
18 order for the licensee to cease and desist from providing
19 money transmission through such delegate. The superintendent
20 may require an unlicensed person to show cause why an order
21 to cease and desist a violation of Code section 533C.301,
22 533C.501, or 533C.502 should not be issued. In an emergency,
23 the superintendent may petition the district court for a
24 temporary restraining order ex parte. An order to cease
25 and desist is effective upon service and remains effective
26 and enforceable pending the completion of an administrative
27 proceeding. A person, licensee, or delegate served with
28 an order to cease and desist may petition the court for an
29 order setting aside, limiting, or suspending the enforcement,
30 operation, or effectiveness of the order pending the completion
31 of an administrative proceeding. An order to cease and
32 desist expires 10 days after issuance unless an administrative
33 proceeding is commenced by the superintendent.

34 The superintendent may enter into a consent order with a
35 person to resolve a matter arising under Code chapter 533C.

1 The consent order must be signed by the person or the person's
2 authorized representative and indicate agreement with the terms
3 contained in the order.

4 The bill authorizes the attorney general or a county
5 attorney to conduct investigations to determine if any
6 licensee, delegate, or person engaged in a trade or business
7 has failed to file a required report, or has engaged in any
8 act, practice, or transaction that constitutes a violation of
9 Code chapter 533C. Upon presentation of a subpoena from a
10 person specified in the bill, all licensees, delegates, and
11 financial institutions shall make their books and records
12 available during normal business hours for inspection and
13 examination in connection with an investigation.

14 The bill authorizes the superintendent to assess civil
15 penalties against a person for violation of Code chapter 533C
16 in an amount not to exceed \$1,000 per day for each day of the
17 violation, plus costs and expenses for the investigation and
18 prosecution, and reasonable attorney fees.

19 Under the bill, a person commits an aggravated misdemeanor
20 if the person is not licensed and knowingly engages in an
21 activity for which a license is required, punishable by
22 confinement for no more than two years and a fine of at least
23 \$855 but not more than \$8,540. A person commits a class "C"
24 felony, and is subject to a civil penalty of three times the
25 value of the property involved in the transaction, or \$5,000,
26 where, with the requisite intent as laid out in the bill,
27 the person knowingly furnishes or provides to a given party
28 any false, inaccurate, or incomplete information; knowingly
29 conceals a material fact in connection with a transaction
30 for which a report is required to be filed; or, with the
31 requisite intent laid out in the bill, conducts or structures
32 a transaction by or through a licensee, delegate, financial
33 institution, or persons engaged in a trade or business. A
34 class "C" felony is punishable by confinement for no more
35 than 10 years and a fine of at least \$1,370 but not more than

1 \$13,660. A person commits a class "D" felony if the person
2 intentionally makes a false statement, misrepresentation,
3 or false certification in a record filed or required to be
4 maintained under Code chapter 533C or intentionally makes a
5 false entry or omits a material entry in such a record. A class
6 "D" felony is punishable by confinement for no more than five
7 years and a fine of at least \$1,025 but not more than \$10,245.
8 Each violation constitutes a separate, punishable offense.

9 The bill prohibits the superintendent from suspending or
10 revoking a license, placing a licensee in receivership, issuing
11 an order to cease and desist, suspending or revoking the
12 designation of a delegate, or assessing a civil penalty without
13 notice and an opportunity to be heard. The superintendent
14 is required to hold a hearing when requested to do so by an
15 applicant whose application for a license is denied.

16 The bill shall be construed to effectuate both its remedial
17 and general purposes. Civil remedies are supplemental and
18 not mutually exclusive, and are not precluded by any other
19 provision of law. The attorney general may enter into
20 reciprocal agreements with the attorney general or chief
21 prosecuting attorney of any state to effectuate the purposes
22 of the bill.

23 The bill creates a separate financial services licensing
24 fund (fund) in the state treasury under the authority of
25 the banking division of the department of commerce. Moneys
26 deposited in the fund shall be used to pay for staffing
27 necessary to perform duties required of the superintendent and
28 the banking division. Moneys appropriated or credited to the
29 fund remain in the financial services licensing fund and remain
30 available for expenditure for the designated purposes.

31 Except for the section of the bill amending Code section
32 533C.103, the bill applies retroactively to July 1, 2023.

33 The bill takes effect upon enactment.