

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

Senate Bill 887

FISCAL
NOTE

By Senator Barnhart

[Introduced February 9, 2026; referred
to the Committee on Banking and Insurance; and
then to the Committee on Finance]

1 A BILL to amend and reenact §32A-2-1, §32A-2-4, §32A-2-17, and §32A-2-27 of the Code of West
 2 Virginia, 1931, as amended; and to amend the code by adding a new section, designated
 3 §32A-2-8c, relating to requirements for licensure and regulation of money service
 4 businesses; creating new definitions for virtual currency and the use of virtual currency
 5 kiosks; including the ownership and operation of virtual currency kiosks in the definition of
 6 “money transmission”; designating a start date for licensure of kiosks; setting forth
 7 disclosure and receipt requirements for customers of virtual currency kiosks; providing for
 8 a resolution of conflicts between state and federal law as it relates to money transmission;
 9 and clarifying that virtual currency kiosks are delegates of a money transmission licensee.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 2. CHECKS AND MONEY ORDER SALES, MONEY TRANSMISSION
 SERVICES, TRANSPORTATION AND CURRENCY EXCHANGE.**

§32A-2-1. Definitions.

1 (a) "Acting in concert" means persons knowingly acting together with a common goal of
 2 jointly acquiring control of a licensee whether or not pursuant to an express agreement.

3 (b) "Average daily money transmission liability" means the amount of the licensee's
 4 outstanding money transmission obligations in this state at the end of each day in a given period of
 5 time, added together, and divided by the total number of days in the given period of time. For
 6 purposes of calculating average daily money transmission liability, the given period of time shall be
 7 the quarters ending March 31, June 30, September 30, and December 31.

8 (c) "Check" means any check, traveler's check, draft, money order, or other instrument for
 9 the transmission or payment of money whether or not the instrument is negotiable. "Check" does
 10 not include a credit card voucher or a letter of credit.

11 (d) "Closed loop stored value" means stored value that is redeemable by the issuer only for
 12 goods or services provided by the issuer or its affiliate or franchisees of the issuer or its affiliate,

13 except to the extent required by applicable law to be redeemable in cash for its cash value.

14 (e) "Commissioner" means the Commissioner of Financial Institutions of this state.

15 (f) "Control" means:

16 (1)(A) The power to vote, directly or indirectly, at least 25 percent of voting shares or voting
17 interests of a licensee or person in control of a licensee;

18 (B) The power to elect or appoint a majority of key individuals or executive officers,
19 managers, directors, trustees, or other persons exercising managerial authority of a person in
20 control of a licensee; or

21 (C) The power to exercise, directly or indirectly, a controlling influence over the
22 management or policies of a licensee or person in control of a licensee.

23 (2) Rebuttable presumption of control:

24 (A) A person is presumed to exercise a controlling influence when the person holds the
25 power to vote, directly or indirectly, at least 10 percent of outstanding voting shares or voting
26 interests of a licensee or person in control of a licensee.

27 (B) A person presumed to exercise a controlling influence as defined in this section can
28 rebut the presumption of control if the person is a passive investor.

29 (3) For the purposes of determining the percentage of a person controlled by any other
30 person, the person's interest shall be aggregated with the interest of any other immediate family
31 member, including the person's spouse, parents, children, siblings, mothers-in-law, fathers-in-law,
32 sons-in-law, daughters-in-law, brothers-in-law, sisters-in-law, and any other person who shares
33 such person's home.

34 (g) "Control of virtual currency," when used in reference to a transaction or relationship
35 involving virtual currency, means the power to execute unilaterally or prevent indefinitely a virtual
36 currency transaction.

37 (h) "Currency exchange" means the conversion of the currency of one government into the
38 currency of another government, but it does not include the issuance and sale of travelers checks

39 denominated in a foreign currency. Transactions involving the electronic transmission of funds by
40 licensed money transmitters which may permit, but do not require, the recipient to obtain the funds
41 in a foreign currency outside of West Virginia are not currency exchange transactions: *Provided*,
42 That they are not reportable as currency exchange transactions under federal laws and
43 regulations.

44 ~~(h)~~ (i) "Currency exchange, transportation, transmission business" means a person who is
45 engaging in currency exchange, currency transportation, or currency transmission as a service or
46 for profit.

47 ~~(i)~~ (j) "Currency transmission" or "money transmission" means, directly or through an
48 authorized delegate: (1) Engaging in the business of selling or issuing checks or the business of
49 receiving currency, the payment of money, or other value that substitutes for money by any means
50 for the purpose of transmitting, either prior to or after receipt, that currency; ~~or~~ (2) Payment of
51 money or other value that substitutes for money by wire, facsimile, or other electronic means, or
52 through the use of a financial institution, financial intermediary, the Federal Reserve system, digital
53 wallet, including but not limited to, a digital wallet used in connection with a consumer payment
54 mobile application, or other funds transfer network; or (3) Engaging in the business of owning or
55 operating a virtual currency kiosk. It includes the transmission of funds through the issuance and
56 sale of stored value or similar prepaid products' cards which are intended for general acceptance
57 and used in commercial or consumer transactions. It also includes payroll processing services. It
58 does not include the provision solely of online or telecommunications services or network access.

59 ~~(j)~~ (k) "Currency transportation" means knowingly engaging in the business of physically
60 transporting currency from one location to another in a manner other than by a licensed armored
61 car service exempted under section three of this article.

62 (l) "Digital wallet" means any electronic or digital functionality that:

63 (1) Stores value or virtual currency for a customer, including but not limited to, in encrypted
64 or tokenized form; and

65 (2) Transmits, routes or otherwise processes such stored value or virtual currency to
66 facilitate a payment transaction.

67 (m) "Elder adult" means a person who is 60 years of age or older.

68 (n) "Exchange," used as a verb, means to assume control of virtual currency from or on
69 behalf of a person, at least momentarily, to sell, trade, or convert:

70 (1) Virtual currency for money, bank credit, or one or more forms of virtual currency; or

71 (2) Money or bank credit for one or more forms of virtual currency.

72 (o) "Existing customer" means a consumer who:

73 (1) Is engaging in a transaction at a virtual currency kiosk in this state; and

74 (2) Has been registered for more than 10 days as a customer of the owner of the virtual
75 currency kiosk or virtual currency kiosk operator.

76 ~~(k)~~ (p) "Key individual" or "principal" means any individual ultimately responsible for
77 establishing or directing policies and procedures of the licensee, such as an executive officer,
78 manager, director, or trustee.

79 ~~(l)~~ (q) "Licensee" means a person licensed by the commissioner under this article.

80 ~~(m)~~ (r) "Money" or "currency" means a medium of exchange that is authorized or adopted
81 by the United States or a foreign government and includes a monetary unit of account established
82 by an intergovernmental organization or by agreement between two or more governments.

83 ~~(n)~~ (s) "Money order" means any instrument for the transmission or payment of money in
84 relation to which the purchaser or remitter appoints or purports to appoint the seller thereof as his
85 or her agent for the receipt, transmission, or handling of money, whether the instrument is signed
86 by the seller, the purchaser, remitter, or some other person.

87 (t) "Money transmission kiosk" or "virtual currency kiosk" means an automated electronic
88 machine that allows users to engage in money transmission, including any machine that is
89 capable of accepting or dispensing cash in exchange for virtual currency. "Money transmission
90 kiosk" or "virtual currency kiosk" does not include consumer cellular telephones and similar

91 personal devices.

92 ~~(e)~~ (u) "MSB accredited state" means a state agency that is accredited by the Conference
93 of State Bank Supervisors and Money Transmitter Regulators Association for money transmission
94 licensing and supervision.

95 ~~(f)~~ (v) "Nationwide Multistate Licensing System and Registry" or "NMLS" means the
96 system developed by the Conference of State Bank Supervisors and the American Association of
97 Residential Mortgage Regulators and owned and operated by the State Regulatory Registry, LLC,
98 or any successor or affiliated entity, for the licensing and registration of persons in the financial
99 services industries.

100 (w) "New customer" means a consumer who is engaging in a virtual currency transaction in
101 this state and has been registered for less than 10 days as a customer of the owner of a virtual
102 currency kiosk or virtual currency kiosk operator.

103 ~~(g)~~ (x) "Outstanding money transmission obligations" shall mean:

104 (1) Any payment instrument or stored value issued or sold by the licensee to a person
105 located in the United States or reported as sold by an authorized delegate of the licensee to a
106 person that is located in the United States that has not yet been paid or refunded by or for the
107 licensee or escheated in accordance with applicable unclaimed property laws; or

108 (2) Any money received for transmission by the licensee or an authorized delegate in the
109 United States from a person located in the United States that has not been received by the payee
110 or refunded to the sender or escheated in accordance with applicable unclaimed property laws.

111 (3) For purposes of this subsection, "in the United States" shall include, to the extent
112 applicable, a person in any state, territory, or possession of the United States, the District of
113 Columbia, the Commonwealth of Puerto Rico, or a United States military installation that is located
114 in a foreign country.

115 ~~(h)~~ (y) "Passive investor" means a person that:

116 (1) Does not have the power to elect a majority of key individuals or executive officers,

117 managers, directors, trustees, or other persons exercising managerial authority of a person in
118 control of a licensee;

119 (2) Is not employed by and does not have any managerial duties of the licensee or person
120 in control of a licensee;

121 (3) Does not have the power to exercise directly or indirectly a controlling influence over
122 the management or policies of a licensee or person in control of a licensee; and

123 (4) Either:

124 (A) Attests to subdivisions (1), (2), and (3) of this subsection in a form prescribed by the
125 commissioner or

126 (B) Commits to the passivity characteristics of subdivisions (1), (2), and (3) of this
127 subsection in a written document.

128 ~~(s)~~ (z) "Payment instrument" means a written or electronic check, draft, money order,
129 traveler's check, or other written or electronic instrument for the transmission of payment of money
130 or monetary value, whether or not negotiable and does not include stored value or any instrument
131 that: (1) is redeemable by the issuer only for goods or services provided by the issuer or its affiliate
132 or franchisees of the issuer or its affiliate, except to the extent required by applicable law to be
133 redeemable in cash for its cash value, or (2) not sold to the public but issued and distributed as part
134 of a loyalty, rewards, or promotional program.

135 ~~(t)~~ (aa) "Payroll processing services" means receiving money for transmission pursuant to
136 a contract with a person to deliver wages or salaries, making payment of payroll taxes to state and
137 federal agencies, making payments relating to employee benefit plans, or making distributions of
138 other authorized deductions from wages and salaries: *Provided*, That it does not include an
139 employer performing payroll processing services on its own behalf or on behalf of an affiliate or a
140 professional employment organization subject to regulation under other applicable state law.

141 ~~(u)~~ (bb) "Person" means any individual, partnership, association, joint stock association,
142 limited liability company, trust, or corporation.

143 ~~(v)~~ (cc) "Stored value" means monetary value representing a claim against the issuer
144 evidenced by an electronic or digital record and that is intended and accepted for use as a means
145 of redemption for money or monetary value, or payment for goods or services. The term includes,
146 but is not limited to, "prepaid access" as defined by 31 C.F.R. § 1010.100, as amended or
147 recodified from time to time. Notwithstanding the foregoing, the term "stored value" does not
148 include a payment instrument, closed loop stored value, or stored value not sold to the public but
149 issued and distributed as part of a loyalty, rewards, or promotional program.

150 ~~(w)~~ (dd) "Tangible net worth" means the aggregate assets of a licensee excluding all
151 intangible assets, less liabilities, as determined in accordance with United States generally
152 accepted accounting principles.

153 (ee) "Transfer" means to assume control of virtual currency from or on behalf of a person
154 and to:

155 (1) Credit the virtual currency to the account of another person;

156 (2) Move the virtual currency from one account of a person to another account of the same
157 person; or

158 (3) Relinquish control of virtual currency to another person.

159 (ff) "U.S. Dollar equivalent of virtual currency" means the equivalent value of a particular
160 virtual currency in United States dollars shown on a virtual-currency exchange based in the United
161 States for a particular date or period specified in this article.

162 (gg) "Virtual currency" means a digital representation of value that is used as a medium of
163 exchange, unit of account, or store of value and is not money, whether or not denominated in
164 money. Virtual currency does not include:

165 (1) A transaction in which a merchant grants, as part of an affinity or rewards program,
166 value that cannot be taken from or exchanged with the merchant for money, bank credit, or virtual
167 currency; or

168 (2) A digital representation of value issued by or on behalf of a publisher and used solely

169 within an online game, game platform, or family of games sold by the same publisher or offered on
170 the same game platform.

171 (hh) "Virtual-currency administration" means issuing virtual currency with the authority to
172 redeem the currency for money, bank credit, or other virtual currency.

173 (ii) "Virtual-currency business activity" means:

174 (1) Exchanging, transferring, or storing virtual currency or engaging in virtual-currency
175 administration, whether directly or through an agreement with a virtual-currency control-services
176 vendor;

177 (2) Holding electronic precious metals or electronic certificates representing interests in
178 precious metals on behalf of another person or issuing shares or electronic certificates
179 representing interests in precious metals; or

180 (3) Exchanging one or more digital representations of value used within one or more online
181 games, game platforms, or family of games for:

182 (A) Virtual currency offered by or on behalf of the same publisher from which the original
183 digital representation of value was received;

184 (B) Money or bank credit outside the online game, game platform, or family of games
185 offered by or on behalf of the same publisher from which the original digital representation of value
186 was received.

187 (jj) "Virtual-currency control-services vendor" means a person that has control of virtual
188 currency solely under an agreement with a person that, on behalf of another person, assumes
189 control of virtual currency.

190 (kk) "Virtual currency kiosk operator" means a person who engages in virtual currency
191 business activity through a money transmission kiosk located in this state or a person that owns,
192 operates, solicits, markets, advertises, manages, or facilitates a money transmission kiosk located
193 in this state through which virtual currency business activity is offered.

194 (ll) "Virtual currency storage" means:

195 (1) Maintaining possession, custody, or control over virtual currency on behalf of another
196 person, including as a virtual currency control-services vendor;

197 (2) Issuing, transferring, or otherwise granting or providing to any person in this state any
198 claim or right or any physical, digital, or electronic instrument, receipt, certificate, or record
199 representing any claim or right to receive, redeem, withdraw, transfer, exchange, or control any
200 virtual currency; or

201 (3) Receiving possession, custody, or control over virtual currency from a person in this
202 state in return for a promise or obligation to return, repay, exchange, or transfer such virtual
203 currency or a like amount of such virtual currency.

204 (mm) "Virtual currency wallet" means a software application or other mechanism providing
205 a means for holding, storing, and transferring virtual currency.

§32A-2-4. License application, issuance, and renewal.

1 (a) An applicant for a license shall submit an application to the commissioner on a form
2 prescribed by the commissioner. The commissioner may direct an applicant to file a license
3 application through the Nationwide Multistate Licensing System and Registry operated by the
4 State Regulatory Registry, LLC.

5 (b) Each application shall be accompanied by a nonrefundable application fee and a
6 license fee. If the application is approved, the application fee is the license fee for the first year of
7 licensure.

8 (c) The commissioner shall issue a license if the commissioner finds that the applicant
9 meets the requirements of this article and the rules adopted under this article. The commissioner
10 shall approve or deny every application for an original license within 120 days from the date a
11 complete application is submitted, unless the commissioner extends the period for good cause. All
12 licenses issued under this article expire on December 31 of the year issued, unless sooner
13 suspended or revoked, and are subject to renewal for the following year.

14 (d) The licensee at each office it owns and operates in West Virginia shall prominently

15 display, or maintain available for inspection, a copy of the license authorizing the conduct of a
16 currency exchange business if the location offers and provides such services. Where the currency
17 exchange business is conducted through a licensee's authorized delegates in this state, each
18 authorized delegate location offering such services shall maintain available for inspection proof of
19 their appointment by the licensee to conduct such business.

20 (e) As a condition for renewal of a license, the licensee must submit to the commissioner
21 an application for renewal on a form prescribed by the commissioner and an annual license
22 renewal fee. The commissioner may direct an applicant to file a license renewal application
23 through the Nationwide Multistate Licensing System and Registry operated by the State
24 Regulatory Registry, LLC.

25 (f) A license issued under this article may not be transferred or assigned.

26 (g) An applicant for a license who is not located in this state shall file an irrevocable
27 consent, duly acknowledged, that suits and actions may be commenced against the applicant in
28 the courts of this state by service of process upon a person located within the state designated to
29 accept service, or by service upon the Secretary of State, as well as by service as set forth in this
30 chapter.

31 (h) The commissioner is authorized to participate in the multistate supervisory process,
32 including any multistate investigatory, examination, and licensing process, established between
33 states and coordinated through the Conference of State Bank Supervisors, Money Transmitter
34 Regulators Association, and affiliates and successors thereof, for all licensees that hold licenses in
35 this state and other states.

36 (i) A virtual currency kiosk operator shall comply with this article and submit applications
37 through NMLS on or before November 1, 2026, for licensure beginning January 1, 2027.
38 Applicants must provide a list of delegate locations at the time of application and include the
39 appropriate fee.

§32A-2-8c. Virtual Currency Kiosk Requirements.

1 (a)(1) The licensee, in establishing a relationship with a customer and before entering into
2 an initial virtual currency transaction on behalf of or with the customer, shall disclose in clear,
3 conspicuous, and legible writing all material risks associated with virtual currency generally.

4 (2) The material risks associated with virtual currency required to be disclosed under
5 subdivision (a)(1) include without limitation:

6 (A) A disclosure that is acknowledged by the customer and provided separately from the
7 disclosures provided under subdivision (a)(2)(B) and subdivision (a)(2)(G), and written
8 prominently and in bold type, stating the following: "WARNING: LOSSES DUE TO FRAUDULENT
9 OR ACCIDENTAL TRANSACTIONS MAY NOT BE RECOVERABLE AND TRANSACTIONS IN
10 VIRTUAL CURRENCY ARE IRREVERSIBLE.";

11 (B) Virtual currency is not backed or insured by the government, and accounts and value
12 balances are not subject to protections of the Federal Deposit Insurance Corporation, National
13 Credit Union Administration, or Securities Investor Protection Corporation;

14 (C) A virtual currency transaction may be deemed to be made when recorded on a public
15 ledger which may not be the date or time when the customer initiates the virtual currency
16 transaction;

17 (D) The value of virtual currency may be derived from the continued willingness of market
18 participants to exchange fiat currency for virtual currency which may result in the permanent and
19 total loss of the value of a particular virtual currency if the market for that virtual currency
20 disappears;

21 (E) The volatility and unpredictability of the price of virtual currency relative to fiat currency
22 may result in a significant loss over a short period of time;

23 (F) A bond maintained by the licensee for the benefit of the customers of the licensee may
24 not be sufficient to cover all losses incurred by customers; and

25 (G) Virtual currency transactions are irreversible and may be used by a person seeking to
26 defraud customers, including but not limited to, a person impersonating a customer's family or

27 friends; threatening jail time, stating that a customer's identity has been stolen insisting that a
28 customer withdraw money from the customer's bank account and purchase virtual currency or
29 alleging that a customer's personal computer has been hacked.

30 (b)(1) A licensee, when opening an account for a new customer and before entering into an
31 initial virtual currency transaction for, on behalf of, or with the customer, shall disclose in clear,
32 conspicuous, and legible writing, using not less than 24 point sans-serif-type font, all relevant
33 terms and conditions associated with the products, services, and activities of the licensee and
34 virtual currency generally.

35 (2) The disclosure required under subdivision (b)(1) shall include without limitation:

36 (A) The customer's liability for unauthorized virtual currency transactions;

37 (B) The customer's right to stop payment of a preauthorized virtual currency transfer and
38 the procedure used to initiate a stop-payment order;

39 (C) The circumstances under which the licensee, absent a court or government order, will
40 disclose information concerning the customer's account to third parties;

41 (D) The requirement that the licensee communicate to the customer what customer
42 information may be disclosed to third parties;

43 (E) The customer's right to receive a receipt for a virtual currency transaction at the time of
44 the transaction;

45 (F) Upon a change in the rules or policies of the owner or operator, the customer's right to
46 consent to the changed rules or policies before performing a transaction after the change; and

47 (G) Any other disclosures that are customarily provided in connection with opening a
48 person's account.

49 (c)(1) A licensee, before each transaction in virtual currency for, on behalf of, or with a
50 customer, shall disclose to the customer in an easily readable manner that is in clear, conspicuous,
51 and legible writing to advertise, solicit, or negotiate, either orally or in writing, for a transaction
52 conducted in person, electronically, or by phone, using not less than 24 point sans-serif-type font,

53 the terms and conditions of the virtual currency transaction.

54 (2) The terms and conditions required under subdivision (c)(1) shall include without
55 limitation:

56 (A) The amount of the transaction;

57 (B) Any fees, expenses, and charges borne by the customer, including without limitation
58 applicable exchange rates;

59 (C) The type and nature of the virtual currency transaction;

60 (D) A warning that, once executed, the virtual currency transaction may not be undone, if
61 applicable;

62 (E) A daily virtual currency transaction limit according to subsection (g);

63 (F) The difference in the sale price of the virtual currency versus the current market price;

64 and

65 (G) Any other disclosures that are customarily given in connection with a virtual currency
66 transaction.

67 (d) A licensee shall ensure that each customer acknowledges receipt of all disclosures
68 required under this section.

69 (e)(1) A licensee, upon the completion of a virtual currency transaction, shall provide to the
70 customer a written, paper receipt containing:

71 (A) The name of, and contact information for the licensee, including without limitation the
72 licensee's business address and a customer service telephone number established by the
73 licensee to answer questions and register complaints;

74 (B) The name of the customer;

75 (C) The type, value, date and precise time of the virtual currency transaction, transaction
76 hash or identification number, and each virtual currency address;

77 (D) The amount of the virtual currency transaction expressed in United States currency;

78 (E) The public virtual currency address of the customer;

79 (F) The unique identifier of the virtual currency kiosk operator;

80 (G) A fee charged, including without limitation a fee charged directly or indirectly by the
81 licensee or a third party involved in the virtual currency transaction;

82 (H) The exchange rate, if applicable;

83 (I) Any tax collected by the licensee for the virtual currency transaction;

84 (J) A statement of the liability of the licensee for non delivery or delayed delivery;

85 (K) A statement of the refund policy of the licensee;

86 (L) The name and telephone number of the Division of Financial Institutions and a
87 statement disclosing that the licensee's customers may contact the division with questions or
88 complaints about the licensee's virtual currency kiosk services; and

89 (M) Any additional information the commissioner may require.

90 (2) The receipt required under subdivision (e)(1) shall be provided in a retainable form and
91 may be provided electronically if the customer requests and agrees to receive an electronic
92 receipt.

93 (f) The total amount of a fee and commission charged by the licensee for a virtual currency
94 transaction shall not exceed \$5 or 10 percent of the amount of the virtual currency transaction.

95 (g) There are established the following maximum daily virtual currency kiosk transaction
96 limits:

97 (1) One thousand dollars for each new customer of a virtual currency kiosk; and

98 (2) Two thousand five hundred dollars for each existing customer of a virtual currency
99 kiosk.

100 (h) The licensee shall allow a new customer, upon the request of the new customer, to
101 cancel and receive a full refund for any fraudulent virtual currency transactions that occurred not
102 later than 10 days after the new customer registered as a customer of the licensee if, not later than
103 30 days after the last virtual currency transaction that occurred during the 10 day period, the new
104 customer:

105 (1) Contacts the licensee and a government or law enforcement agency to inform them of
106 the fraudulent nature of the virtual currency transaction; and

107 (2) Files a report with a government or law enforcement agency memorializing the
108 fraudulent nature of the virtual currency transaction.

109 (i) Each licensee shall:

110 (1) Obtain a copy of a government-issued identification card that identifies each customer
111 of the owner of the virtual currency kiosk or the virtual currency kiosk operator;

112 (2) Maintain restrictions that prevent more than one customer of the licensee from using
113 the same virtual currency wallet;

114 (3) Be able to prevent designated virtual currency wallets from being used at a virtual
115 currency kiosk owned or operated by the licensee;

116 (4) Use an established third party that specializes in performing blockchain analyses to
117 preemptively perform the analyses to identify and prevent high risk or sanctioned virtual currency
118 wallets from being used by customers at virtual currency kiosks owned or operated by the
119 licensee;

120 (5) Define, in the licensee's policies and procedures, a risk-based method of monitoring
121 customers of the owner of the virtual currency kiosk or the virtual currency kiosk operator on a
122 post-transaction basis;

123 (6) Offer, during the hours of operation of the virtual currency kiosks owned or operated by
124 the licensee, live customer support by telephone from a toll-free telephone number prominently
125 displayed at or on the virtual currency kiosks;

126 (7)(A) Identify and speak by telephone with an elder adult who is a new customer before
127 the elder adult who is a new customer completes his or her first virtual currency transaction with
128 the licensee.

129 (B) During the communication, which shall be recorded and retained by the licensee, the
130 licensee shall:

- 131 (i) Reconfirm any attestations made by the new customer at a virtual currency kiosk owned
 132 or operated by the licensee;
- 133 (ii) Discuss the transaction; and
- 134 (iii) Discuss types of fraudulent schemes relating to virtual currency.
- 135 (C) The licensee's approval of the transaction shall be dependent upon the licensee's
 136 assessment of the communication;
- 137 (8) Designate and employ a chief compliance officer who shall:
- 138 (A) Be qualified to coordinate and monitor a compliance program to ensure compliance
 139 with this section and all other applicable federal laws and regulations and state laws and rules; and
- 140 (B) Not own more than 20 percent of the licensee that employs the officer; and
- 141 (9) Use full-time employees to fulfill the licensee's compliance responsibilities under
 142 federal laws and regulations and state laws and rules.

§32A-2-17. Cooperative agreements.

- 1 (a) The commissioner shall cooperate with federal and state agencies in discharging the
 2 commissioner's responsibilities under this article. The commissioner may:
- 3 (1) Arrange for the exchange of information among government officials concerning the
 4 regulation of a currency exchange, transportation or transmission business;
- 5 (2) Cooperate in and coordinate training programs concerning the regulation of currency
 6 exchange, transportation or transmission businesses; and
- 7 (3) Assist state and federal agencies in their enforcement and investigatory activities and
 8 supply those agencies with documentation and information.
- 9 (b) The commissioner may request the assistance of the West Virginia state police in
 10 enforcing this article.
- 11 (c) In the event state money transmission jurisdiction is conditioned on a federal law, any
 12 inconsistencies between any provision of this article and the federal law governing money
 13 transmission shall be governed by the applicable federal law to the extent of the inconsistency.

14 (d) In the event of any inconsistencies between this article and a federal law that governs
15 pursuant to subsection (c) of this section, the commissioner may provide interpretive guidance
16 that: (1) Identifies the inconsistency; and (2) Identifies the appropriate means of compliance with
17 federal law.

§32A-2-27. Authorized delegates.

1 (a) A licensee may conduct the business of money transmission and currency exchange
2 regulated by this article at one or more locations through authorized delegates designated by the
3 licensee to conduct business on its behalf, including the physical locations of money transmission
4 kiosks and virtual currency kiosks.

5 (b) A licensee may not knowingly authorize a person to act as its delegate who has, within
6 the previous 10 years, a disqualifying criminal conviction of the type set forth in §32A-2-8(c)(2) of
7 this article.

8 (c) A licensee shall enter into a contract with its authorized delegate detailing the nature
9 and scope of the relationship between the licensee and the authorized delegate. The contract shall
10 require that the authorized delegate operate in full compliance with the laws of this state and of the
11 United States. The licensee shall, upon request, provide the commissioner with the sample written
12 contract.

13 (d) The financial responsibility of a licensee for the actions of its authorized delegate shall
14 not exceed the amount of funds received by the authorized delegate on behalf of its licensee for
15 the business regulated under this article.

16 (e) An authorized delegate has an affirmative duty not to: (i) Commit fraud or
17 misrepresentation; or (ii) submit fraudulent statements to the licensee. A licensee shall promptly
18 report to the commissioner and to any other appropriate state or federal official when it has
19 probable cause to believe that an authorized delegate has violated the affirmative duty set forth in
20 this subsection.

21 (f) The licensee shall require the authorized delegate to hold in trust for the licensee from

22 the moment of receipt of the proceeds of any business transacted under this article in an amount
23 equal to the amount of proceeds due the licensee less the amount due the authorized delegate.
24 The funds shall remain the property of the licensee whether or not commingled by the authorized
25 delegate with its own funds. In the event that the license is revoked by the commissioner, all
26 proceeds held in trust by the authorized delegate of that licensee are considered to be assigned to
27 the commissioner. If an authorized delegate fails to remit funds to the licensee in accordance with
28 the time specified in the contract with the licensee, the licensee may bring a civil action against the
29 authorized delegate for three times the actual damages. The commissioner may by rule set a
30 maximum remittance time for authorized delegates.

31 (g) An authorized delegate shall report to the licensee the theft or loss of payment
32 instruments within 24 hours from the time the authorized delegate knew or should have known of
33 the theft or loss.

34 (h) Upon any suspension or revocation of a license, the failure of a licensee to renew a
35 license, or the denial of the renewal of a license, the licensee shall notify its authorized delegates
36 of the event and demand that they immediately cease operations as authorized delegates.

37 (i) A licensee shall report the removal of an authorized delegate location, or the termination
38 of operations of an authorized delegate location, including money transmission kiosks and virtual
39 currency kiosks, to the commissioner on a quarterly basis, and shall in the report list any new
40 authorized delegate locations, including money transmission kiosks and virtual currency kiosks, in
41 this state.

42 (j) No authorized delegate shall act outside its scope of authority as defined under this
43 article and by its contract with the licensee to act on behalf of the licensee with regard to any
44 transaction regulated by this article.

NOTE: The purpose of this bill is to bring virtual currency kiosks within the purview of money transmission licensure and create disclosure requirements and daily transaction limitations for new and existing customers.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.