SB173

181769-4

By Senator Orr

RFD: Banking and Insurance

First Read: 14-FEB-17
A BILL
TO BE ENTITLED
AN ACT

To repeal Chapter 7 (commencing with Section 8-7-1) of Title 8, and to add Chapter 7A (commencing with Section 8-7A-1), the Code of Alabama 1975; to provide for regulation of money transmissions by the Alabama Securities Commission; to require any person engaging in the business of monetary transmissions to obtain a license from the commission and specify requirements for licensing and exceptions; to require a licensee to maintain records and specify the commission would periodically examine each licensee; to specify the powers of the commission with regard to enforcement; to provide an aggrieved person with an opportunity for a hearing; to allow the commission to promulgate rules; to provide criminal penalties for violations; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Amendment 621 of the Constitution of Alabama of 1901, now
appearing as Section 111.05 of the Official Recompilation of
the Constitution of Alabama of 1901, as amended.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Chapter 7 (commencing with Section 8-7-1)
of Title 8 of the Code of Alabama 1975, relating to the sale
of checks, is repealed.

Section 2. Chapter 7A (commencing with Section
8-7A-1) of Title 8 is added to Title 8 of the Code of Alabama
1975, to read as follows:

Chapter 7A. Alabama Monetary Transmission Act.

§8-7A-1 Short title.

This chapter may be cited as the Alabama Monetary
Transmission Act.


For purposes of this chapter, the following terms
shall have the following meanings:

(1) AGENT or AUTHORIZED DELEGATE. Any person
designated or employed by a licensee under this chapter to
provide monetary transmission services on behalf of the
licensee.

(2) APPLICANT. Any person that files an application
for a license under this chapter.

(3) BANK. An institution organized under federal or
state law which meets any of the following requirements:
a. Accepts demand deposits or deposits that the
depositor may use for payment to third parties and engages in
the business of making loans.
b. Engages in credit card operations and maintains only one office that accepts deposits, does not accept demand deposits or deposits that a depositor may use for payments to third parties, does not accept a savings or time deposit less than one hundred thousand dollars ($100,000), and does not engage in the business of making commercial loans.

c. Is a trust company subject to the jurisdiction of the Alabama State Banking Department, or subject to another state or federal banking regulatory authority.

(4) COMMISSION. The Alabama Securities Commission, its director, officers, or any person authorized to act on its behalf.

(5) CONTROL. Any of the following:

a. The ownership of, or the power to vote, directly or indirectly, at least 25 percent of a class of voting securities or voting interests of a licensee or person in control of a licensee.

b. The power to elect a majority of executive officers, managers, directors, trustees, or other persons exercising managerial authority of a licensee or person in control of a licensee.

c. The power to exercise, directly or indirectly, a controlling influence over the management or policies of a licensee or person in control of a licensee.

(6) EXECUTIVE OFFICER. A president, chair of the executive committee, chief financial officer, responsible
individual, or other individual who performs similar functions.

(7) LICENSEE. A person licensed under this chapter.

(8) MONETARY VALUE. A medium of exchange, including virtual or fiat currencies, whether or not redeemable in money.

(9) MONEY. A medium of exchange that is authorized or adopted by the United States or a foreign government. The term includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more governments.

(10) MONEY TRANSMISSION. Selling or issuing payment instruments, stored value, or receiving money or monetary value for transmission. The term does not include the provision solely of delivery, online or telecommunications services, or network access.

(11) PAYMENT INSTRUMENT. A check, draft, money order, traveler's check, or other means utilized for the transmission or payment of money or monetary value, whether or not negotiable. The term does not include a credit voucher, letter of credit, or instrument that is redeemable by the issuer in goods and services.

(12) PERSON. An individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; governmental subdivision, agency or instrumentality; public corporation; or any other legal or commercial entity.
(13) RECORD. Information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(14) RESPONSIBLE INDIVIDUAL. An individual who is employed by a licensee and has managerial authority over the provision of the money transmittal services of the licensee in this state.

(15) STORED VALUE. Monetary value that is evidenced by an electronic record.

(16) UNSAFE OR UNSOUND PRACTICE. A practice or conduct by a person licensed to engage in money transmission or an authorized delegate of such person which creates the likelihood of material loss, insolvency, or dissipation of the licensee's assets, or otherwise prejudices the interests of its customers or a practice or conduct defined by rule of the commission to be an unsafe or unsound practice.

§8-7A-3 Exclusions.

This chapter does not apply to any of the following:

(1) The United States or a department, agency, or instrumentality thereof.

(2) The transmission of money by the United States Postal Service or by a contractor on behalf of the United States Postal Service.

(3) A state, county, city, or any other governmental agency or governmental subdivision of a state.

(4) Electronic funds transfer of governmental benefits for a federal, state, or governmental agency by a
contractor on behalf of the United States or a department, agency, or instrumentality thereof, or a state or governmental subdivision, agency, or instrumentality thereof.

(5) A board of trade designated as a contract market under the federal Commodity Exchange Act, 7 U.S.C. Sections 1-25 (1994), or a person that, in the ordinary course of business, provides clearance and settlement services for a board of trade to the extent of its operation as or for such a board.

(6) A registered futures commission merchant under the federal commodities laws to the extent of its operation as such a merchant.

(7) A bank, bank holding company, office of an international banking corporation, or a branch of a foreign bank, provided that such international banking corporation or foreign bank is subject to regulation significantly similar to United States or state chartered banks and deposits are insured.

§8-7A-4. Exemptions from licensing.

Sections 8-7A-5 to 8-7A-15, inclusive, shall not apply to any of the following persons:

(1) A person that provides clearance or settlement services pursuant to a registration as a clearing agency or an exemption from such registration granted under the federal securities laws.

(2) An operator of a payment system to the extent that it provides processing, clearing, or settlement services,
between or among persons excluded by this section, in
connection with wire transfers, credit card transactions,
debit card transactions, stored-value transactions, automated
clearing house transfers, or similar funds transfers.

(3) A person registered as a securities
broker-dealer under federal or state securities laws to the
extent of its operation as such a broker-dealer.

(4) Any person collecting, forwarding, or submitting
payments to the state, a state agency, board, or commission, a
quasi-governmental agency, or to persons in state custody,
provided the person does all of the following:

a. Operates in this state exclusively for such
purpose.

b. Has entered into a binding contract with the
governmental entity or entities to provide money transmittal
services to third parties.

c. Files a notice with the commission identifying
all governmental agencies for whom the person has contracted
to provide money transmittal services.

d. Has an independent audit performed on a yearly
basis.

e. Immediately notifies the commission if any
financial or other condition arises which would compromise the
person's ability to perform the services for which the person
has contracted.
f. Maintains a segregated account or accounts for the deposit and transmittal of third-party payments which will not be comingle with any other funds.

g. Upon request, makes its books and records available for examination by the commission.

§8-7A-5. License required.

(a) A person may not engage in the business of money transmission or advertise, solicit, or hold itself out as providing money transmission unless the person meets one of the following requirements:

(1) Is licensed under this chapter.

(2) Is an authorized delegate of a person licensed under this chapter.

(b) A license under this chapter is not transferable or assignable.

§8-7A-6. Application for license.

(a) A person applying for a license under this chapter shall do so in a form and in a medium prescribed by the commission. The application shall contain all of the following information:

(1) The legal name, the residential address of the applicant if the applicant is an individual, the business addresses of the applicant, and any fictitious or trade name used by the applicant in conducting its business.

(2) A list of any criminal convictions of the applicant and any material litigation in which the applicant
has been involved in the 10-year period preceding the
submission of the application.

(3) A description of any money transmission services
previously provided by the applicant.

(4) A list of the proposed authorized delegates of
the applicant and the locations in this state where the
applicant and its authorized delegates propose to engage in
money transmission services.

(5) A list of other states in which the applicant is
licensed to engage in money transmission or provide other
money services and any license revocations, suspensions, or
other disciplinary action taken against the applicant in
another state.

(6) Information concerning any bankruptcy within the
last seven years, or receivership proceedings affecting the
applicant or any control person or affiliate of the applicant.

(7) A sample form of any contract the applicant
proposes to use, including both of the following:

a. Any contract to be used by an authorized delegate
   or agent of the applicant.

b. Any contract to be used with consumers relating
to the provision of money transmission services.

(8) A sample form of any payment instrument or
instrument upon which stored value is recorded, if applicable.

(9) The names and addresses of any banks through
which the applicant's payment instruments and stored value
will be paid.
(10) Any other information the commission reasonably requires with respect to the applicant.

(b) If an applicant is not an individual or natural person, in addition to the information required in subsection (a), the applicant shall provide all of the following information:

(1) The date of the applicant's incorporation or formation and state or country of incorporation or formation.

(2) A certificate of good standing from the state or country in which the applicant is incorporated or formed and proof of registration with the Alabama Secretary of State to do business as a foreign corporation, if incorporated in another state or country.

(3) A brief description of the structure or organization of the applicant, including any parent, affiliate, or subsidiary of the applicant, and whether any parent, affiliate, or subsidiary is publicly traded.

(4) The legal name, any fictitious name, all business and residential addresses, and the employment, for the 10 years preceding the submission of the application for each executive officer, manager, director, or a person who has direct or indirect control of the applicant.

(5) A list of criminal convictions of, and material litigation involving, any executive officer, manager, director, or a person who has direct or indirect control of the applicant, for the 10 years preceding the submission of the application.
(6) A copy of the applicant's audited financial statements for the most recent fiscal year and, if available, for the two-year period preceding the submission of the application.

(7) A copy of the applicant's unconsolidated financial statements for the current fiscal year.

(8) If the applicant has a registered agent in this state, the name and address of the applicant's registered agent.

(9) Any other information the commission reasonably requires with respect to the applicant.

(c) A nonrefundable filing fee and a license fee shall accompany an application for a license under this chapter. The commission may set the filing and license fees by rule. The minimum filing fee and license fee shall not be less than five hundred dollars ($500), respectively.

(d) The commission may waive one or more of the requirements in subsections (a) and (b) or permit an applicant to submit alternate information in lieu of the required information.


(a) A licensee shall maintain a surety bond, letter of credit, or other similar security in an amount, determined by rule or order of the commission, sufficient to secure faithful performance of the obligations of the licensee with respect to money transmission in Alabama.
(b) Security must be in a form satisfactory to the commission and payable to the commission for the benefit of any claimant against the licensee.

(c) A claimant against a licensee may maintain an action on the bond, or the commission may maintain an action on behalf of the claimant.

(d) A surety bond must cover claims for a minimum of five years after the licensee ceases to provide money transmission services in this state. The surety bond may be reduced or eliminated, at the discretion of the commission, to the extent the amount of the licensee's outstanding payment instruments and stored-value obligations are less than the surety bond coverage.

(e) The commission has discretion to accept other forms of security in lieu of the bond.

(f) In no event shall the bond be set at an amount less than one hundred thousand dollars ($100,000), or the average daily outstanding obligations for money received for transmission in Alabama plus 50 percent of the average daily outstanding payment instrument and stored value obligations in Alabama, whichever is greater.

(g) The commission may increase the amount of security required to a maximum of five million dollars ($5,000,000) if the financial condition of a licensee so requires, as evidenced by reduction of net worth, financial losses, or other relevant criteria.
(a) When an application is filed under this chapter, the commission shall investigate the applicant's financial condition and responsibility, financial and business experience, character, and general fitness. The commission may conduct an on-site investigation of the applicant, the reasonable cost of which the applicant must pay. The commission shall issue a license to an applicant under this chapter if the commission finds that both of the following conditions have been fulfilled:

1. The applicant has complied with Sections 8-7A-6 and 8-7A-7.

2. The financial condition and responsibility, financial and business experience, competence, character, and general fitness of the applicant; and the competence, experience, character, and general fitness of the executive officers, managers, directors, and persons in control of, the applicant indicate that it is in the interest of the public to permit the applicant to engage in money transmission.

(b) When an application for an original license under this chapter is determined by the commission to be complete, the commission shall promptly notify the applicant in writing of the date on which the application was determined to be complete, and:

1. The commission shall approve or deny the application within 120 days after that date.

2. If the application is not approved or denied within 120 days after that date, the application is approved,
and the license takes effect as of the first business day after expiration of the 120-day period.

(c) The commission may for good cause extend the application period.


(a) All licenses under this chapter shall expire on March 31 of the calendar year.

(b) A licensee under this chapter shall pay an annual renewal fee no later than March 15. The renewal fee shall be established by rule of the commission and shall not be less than five hundred dollars ($500).

(c) A licensee under this chapter shall submit a renewal report with the renewal fee, in a form and in a medium prescribed by the commission. The renewal report shall contain the following information:

(1) A copy of the licensee's most recent audited financial statement.

(2) The number and monetary value of payment and stored-value instruments sold by the licensee in this state which have not been included in a previous renewal report, and the monetary amount of payment and stored-value instruments currently outstanding.

(3) A description of each material change in information submitted by the licensee in its original license application which has not been reported to the commission.

(4) Proof that the licensee continues to maintain adequate security as required by Section 8-7A-7.
(5) A list of the locations in this state where the
licensee or an authorized delegate of the licensee engages in
money transmission.

(d) The renewal license shall become immediately
effective upon the expiration of the current license if the
licensee has submitted the renewal fee pursuant to subsection
(b) and the required reports pursuant to subsection (c) to the
commission.

(e) If the licensee fails to renew the license prior
to March 31, the licensee shall have 20 days from the
expiration date to submit the renewal fee and report required
pursuant to subsections (b) and (c), plus a late fee of one
hundred dollars ($100) for each day between expiration of the
license and submission of the renewal report. If the licensee
perfects renewal of the license prior to the expiration of the
20 days, the license renewal shall be effective on April 1,
and the licensee shall not be liable for unlicensed monetary
transmission during the period between the statutory
expiration date and the date the renewal is perfected.

(f) The commission, for good cause, may grant an
extension of the renewal date.


A licensee under this chapter shall maintain a net
worth of at least twenty-five thousand dollars ($25,000)
determined in accordance with generally accepted accounting
principles.
§8-7A-11. Relationship between licensee and authorized delegate.

(a) A contract between a licensee and an authorized delegate shall require the authorized delegate to operate in full compliance with this chapter.

(b) The licensee shall establish, furnish, and enforce policies and procedures sufficient to ensure that its authorized delegates comply with this chapter.

(c) An authorized delegate may not use a subdelegate to conduct money transmission on behalf of a licensee.

§8-7A-12. Examinations.

(a) The commission may conduct an annual examination of a licensee or of any of its authorized delegates.

(b) The commission may examine a licensee or its authorized delegate, at any time, if the commission has reason to believe that the licensee or authorized delegate is engaging in an unsafe or unsound practice or has violated or is violating this chapter or any rule adopted or order issued under this chapter.

(c) If the commission concludes that an on-site examination is necessary under subsection (b), the licensee shall pay the reasonable cost of the examination.

(d) Information obtained during any examination under this chapter may be disclosed only as prescribed in Section 8-7A-21.

§8-7A-13. Reports.
(a) A licensee shall file a report to the commission within 15 business days of any material change in information provided in a licensee's application.

(b) A licensee shall file a report with the commission within five business days after the licensee has reason to know of the occurrence of any of the following events:

(1) The filing of a petition by or against the licensee under the United States Bankruptcy Code for bankruptcy or reorganization.

(2) The filing of a petition by or against the licensee for receivership, the commencement of any other judicial or administrative proceeding for its dissolution or reorganization, or the making of a general assignment for the benefit of its creditors.

(3) The commencement of a proceeding to revoke or suspend its license in a state or country in which the licensee engages in business or is licensed.

(4) The cancellation or other impairment of the licensee's bond or other security.

(5) A charge or conviction of the licensee or of an executive officer, manager, commission, or other control person of the licensee for a felony.

(6) A charge or conviction of an authorized delegate of the licensee for a felony.
(7) The executive officers, managers, directors, an
authorized delegate, or persons in control of the licensee are
named in any material civil litigation or class action.

(c) (1) A licensee shall give notice of a proposed
change of control within 15 days after learning of the
proposed change in control.

(2) The commission shall approve a request for
change of control if, after investigation, the commission
determines that the person or group of persons requesting
approval has the competence, experience, character, and
general fitness to operate the licensee or person in control
of the licensee in a lawful and proper manner and that the
public interest will not be jeopardized by the change of
control.

(3) The commission shall approve or deny a request
for change of control within 120 days after the notice. If the
request has not been approved or denied within 120 days, the
request will be deemed to have been approved and will take
effect on the first day after the expiration of the 120 days.

(d) A licensee and an authorized delegate shall
maintain a file of all reports required by federal currency
reporting, record keeping, and suspicious transaction
reporting requirements as set forth in 31 U.S.C. Section 5311
(1994), and other federal and state laws pertaining to money
laundering. If an investigation or other inquiry is initiated
by any regulatory authority, the licensee shall immediately
notify the commission and forward all records associated with such investigation or inquiry.


(a) A licensee shall maintain all of the following records for determining its compliance with this chapter:

(1) A record of each payment instrument or stored-value obligation sold.

(2) A general ledger posted at least monthly containing all assets, liabilities, capital, income, and expense accounts.

(3) Bank statements and reconciliation records.

(4) Records of outstanding payment instruments and stored-value obligations.

(5) Records of each payment instrument and stored-value obligation paid within a five-year period.

(6) A list of names and addresses of all of the licensee's authorized delegates.

(7) Any other record the commission requires by rule.

(b) The records referenced in subsection (a) shall be maintained by the licensee for a minimum of five years. Records may be maintained outside of the state.

(c) All records of a licensee, authorized delegate, or applicant shall be subject to reasonable, periodic, or special examination, at any time or from time to time, whether the records are located within or outside of this state, as the commission deems necessary or appropriate to the public
interest. The licensee shall make any record available for inspection by the commission within five business days of the request.


(a) The commission, by order, may suspend or revoke a license or order a licensee to revoke the designation of an authorized delegate, with or without prior notice, if the commission finds that such an order is in the best interest of the public, and any of the following circumstances exist:

(1) The licensee has violated any provision of this chapter or a rule adopted or an order issued under this chapter.

(2) The licensee, or any authorized delegate, does not cooperate with an examination or investigation by the commission.

(3) The licensee, or any authorized delegate, engaged in fraud, intentional misrepresentation, or gross negligence.

(4) An authorized delegate is convicted of a violation of a state or federal anti-money laundering statute, or willfully violates a rule adopted or an order issued under this chapter.

(5) The competence, experience, character, or general fitness of the licensee, authorized delegate, or a control person of a licensee indicates that it is not in the public interest to permit the person to provide money transmission services.
(6) The licensee becomes insolvent, suspends payment of its obligations, or makes a general assignment for the benefit of its creditors.

(7) The licensee engages in an unsafe or unsound practice. In determining whether a licensee is engaging in an unsafe or unsound practice, the commission may consider the size and financial condition of the licensee's money transmission business, the magnitude of any losses, the severity of the violation of this chapter, and the previous disciplinary history of the person involved.

(b) The commission may issue an order suspending or revoking the designation of an authorized delegate, if the commission finds that such order is in the best interest of the public, and any of the following circumstances exist:

(1) The authorized delegate has violated any provision of this chapter or a rule adopted or an order issued under this chapter.

(2) The authorized delegate does not cooperate with an examination or investigation by the commission.

(3) The authorized delegate engaged in fraud, intentional misrepresentation, or gross negligence.

(4) An authorized delegate is convicted of a violation of a state or federal anti-money laundering statute, or willfully violates a rule adopted or an order issued under this chapter.

(5) The competence, experience, character, or general fitness of the authorized delegate indicates that it
is not in the public interest to permit the person to provide
money transmission services.

(6) The authorized delegate engages in an unsafe or
unsound practice. In determining whether a licensee is
engaging in an unsafe or unsound practice, the commission may
consider the size and financial condition of the licensee's
money transmission business, magnitude of any losses, severity
of the violation of this chapter, and previous disciplinary
history of the person involved.

§8-7A-16. Unauthorized activities.

A person may not provide monetary transmission
services on behalf of a person required to be licensed who is
not licensed under this chapter. The commission, by rule or
order, may further define unauthorized activities.

§8-7A-17. Orders to cease and desist and other
injunctive or civil relief.

(a) If the commission determines that any person has
engaged in or is about to engage in any act or practice
constituting a violation of this chapter or a rule adopted or
an order issued under this chapter, the commission, in its
discretion, may do any of the following:

(1) Issue an order, with or without a prior hearing
or notice, against the person or persons engaged in the act or
practice, directing them to cease and desist from engaging in
the act or practice.

(2) Issue an order appointing a receiver or
conservator over a respondent or the respondent's assets.
(3) Order restitution or disgorgement against any person who has violated this chapter or any rule adopted or order issued pursuant to this chapter.

(3) Bring an action in any court of competent jurisdiction to enjoin an act or practice and to enforce compliance with this chapter or any rule adopted or order issued hereunder. Upon a proper showing, the court may issue a temporary restraining order or permanently enjoin any unlawful act or practice.

(b) The commission shall not be required to post a bond.

The commission may enter into a consent order at any time with a person to resolve a matter arising under this chapter or a rule adopted or order issued under this chapter. A consent order must be signed by the person to whom it is issued or by the person's authorized representative, and must indicate agreement with the terms contained in the order.

(a) The commission may assess a civil penalty against a person that violates this chapter or a rule adopted or an order issued under this chapter in an amount not to exceed one thousand dollars ($1,000) per day for each day the violation is outstanding.

(b) In addition to the assessment in subsection (a), the commission may assess a charge for the actual cost of any investigation resulting from any violation of this chapter, a
violation of any rule or order issued under this chapter, or
the cost of any examination made by the commission pursuant to
this chapter, to the person or persons subject to such
investigation or examination. All assessments collected under
this subsection shall be deposited in the Alabama Securities
Commission Fund in the State Treasury to be drawn upon by the
commission for its use in administration of this chapter.

§8-7A-20. Criminal penalties.

(a) A person that intentionally makes a false
statement, misrepresentation, or false certification in a
record filed or required to be maintained under this chapter
or that intentionally makes a false entry or omits a material
entry in such a record, upon conviction, shall be guilty of a
Class D felony.

(b) A person that knowingly engages in an activity
for which a license is required under this chapter without
being licensed under this chapter and who receives more than
five thousand dollars ($5,000) in compensation within a
one-year period from this activity, upon conviction, shall be
guilty of a Class C felony.

(c) A person that knowingly engages in an activity
for which a license is required under this chapter without
being licensed under this chapter and who receives no more
than five thousand dollars ($5,000) in compensation within a
one-year period from this activity, upon conviction, shall be
guilty of a Class D felony.
(d) The enforcement of this chapter shall be vested in the commission. It is the duty of the commission to enforce this chapter and to investigate, prevent, and detect violations of this chapter. The commission is vested with the rights, privileges, and powers conferred by law upon district attorneys, including the power to appear before grand juries and to interrogate witnesses before such grand jury. A district attorney may empower the commission to proceed on its behalf in any proceeding under this chapter.

(e) In any proceeding under this chapter, scienter need not be alleged and proved in prosecutions of violations involving unlicensed money transmission.

(f) A proceeding under this chapter shall not preempt or foreclose any criminal action or liability which may arise under any other criminal provision of the Code of Alabama 1975.


(a) Except as otherwise provided in subsection (b), all information or reports obtained by the commission from the applicant, licensee, or authorized delegate and all information contained in or related to examination, investigation, operation, or condition reports prepared by, or on behalf of, or for the use of the commission, are confidential and are not subject to disclosure under Section 36-12-40.

(b) The commission may disclose information not otherwise subject to disclosure under subsection (a) to
representatives of state and federal agencies, provided the
agencies submit an undertaking to maintain the confidentiality
of the information in a record.

(c) This section does not prohibit the commission
from disclosing to the public a list of persons licensed under
this chapter or the aggregated financial data concerning those
licensees.

The commission may consult and cooperate with other
federal and state agencies in enforcing and administering this
chapter. The commission may jointly pursue examinations and
take other official action that it is otherwise empowered to
take.

§8-7A-23. Investigation and subpoenas by commission.
(a) The commission may do any of the following:

(1) Make such public or private investigations
within or outside of this state as it deems necessary to
determine whether: Any license under this chapter should be
granted, denied, suspended, or revoked; any person has
violated or is about to violate any provision of this chapter
or any rule or order hereunder; or to aid in the enforcement
of this chapter or in the prescribing of rules and forms
hereunder.

(2) Require or permit any person to file a statement
in writing, under oath, or otherwise as the commission may
determine, as to all the facts and circumstances concerning
the matter to be investigated.
(3) Publish information concerning any violation of this chapter or any rule or order hereunder.

(b) In relation to any investigation or proceeding under this chapter, the commission, or any officer designated, may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the commission deems relevant to the inquiry.

(c) In case of refusal to obey a subpoena, upon application by the commission, any court of competent jurisdiction may issue an order to the person failing to obey the subpoena requiring that person to appear before the commission or the officer designated by it, to produce documentary evidence if so ordered, or to give evidence touching the matter under investigation or in question. The court may hold any person who fails to obey an order of the court in contempt of court.

(d) No person is excused from attending and testifying or from producing any document or record before the commission or any officer designated by it, in any proceeding instituted by the commission, on the ground that the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate him or her or subject him or her to a penalty or forfeiture; provided, no individual may be prosecuted or subjected to any penalty or forfeiture using or based on information he or she offered after asserting such
privilege, except that the individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. Nothing in this section shall prohibit the commission from prosecuting any person compelled to testify or provide evidence, if the commission has sufficient evidence, derived from other sources not discovered, derived, or revealed from such compelled testimony or evidence, to sustain a prosecution for a violation under this chapter.


(a) Any person aggrieved by an order issued under this chapter shall be entitled to a hearing, as authorized for contested cases, pursuant to the Administrative Procedure Act, Chapter 22 of Title 41, if the aggrieved person, within 28 days after delivery of the order, submits a written request for a hearing before the commission. The order shall disclose the right to a hearing upon written request within 28 days after delivery of the order. If no timely request for a hearing is made, the order shall constitute a final order of the commission.

(b) Any appeal from any final order of the commission shall be made to the Circuit Court of Montgomery County and shall be governed by the provisions of the Administrative Procedure Act pertaining to judicial review.

§8-7A-25. Burden of proving an exemption or an exception from a definition.
In any proceeding under this chapter, the burden of proving an exemption or an exception from a definition is upon the person claiming it.

The commission from time to time, may make, amend, and rescind rules and prescribe forms as are necessary and desirable to carry out this chapter. No rules or forms may be made or prescribed unless the commission finds that the action is necessary or appropriate in the public interest and consistent with the purposes fairly intended by the policy and provisions of this chapter. In prescribing rules and forms, the commission may cooperate with the administrators of other states, industry representatives, and other federal regulatory bodies with a view to effectuate the policy of this chapter to achieve maximum uniformity in the form and content of applications and reports wherever practicable. All rules shall be adopted pursuant to the Alabama Administrative Procedure Act and, along with all forms adopted, be published by the commission.

§8-7A-27. Interpretive opinions by the commission.
(a) The commission may issue interpretative opinions and no-action letters upon request from interested persons. Such opinions or no-action letters shall be limited in scope and may not be requested to provide legal advice to any person. No opinion or no-action letter shall be issued on a hypothetical basis.
(b) Any person who makes application to the commission for an interpretative opinion or no-action letter shall be assessed a nonrefundable filing fee of five hundred dollars ($500) upon application for such opinion or no-action letter.

Section 3. Persons licensed and in good standing pursuant to Chapter 7 of Title 8, Code of Alabama 1975, on the effective date of this act, shall retain the license issued pursuant to that chapter without interruption until their next licensing renewal date.

Section 4. Although this bill would have as its purpose or effect the requirement of a new or increased expenditure of local funds, the bill is excluded from further requirements and application under Amendment 621 because the bill defines a new crime or amends the definition of an existing crime.

Section 5. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.
Senate

Read for the first time and referred to the Senate committee on Banking and Insurance............... 14-FEB-17

Read for the second time and placed on the calendar 1 amendment.................................. 21-FEB-17

Read for the third time and passed as amended .... 09-MAR-17

Yeas 30
Nays 0

Patrick Harris,
Secretary.