

Introduced by

Industry, Business and Labor Committee

(At the request of the Department of Financial Institutions)

1 A BILL for an Act to amend and reenact section 13-09-02 of the North Dakota Century Code,
2 relating to definitions under the North Dakota money transmitter Act.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 13-09-02 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **13-09-02. Definitions.**

7 In this chapter, unless the context otherwise requires:

- 8 1. "Applicant" means a person filing an application for a license under this chapter.
- 9 2. "Authorized delegate" means an entity designated by the licensee under the
10 provisions of this chapter to sell or issue payment instruments or engage in the
11 business of transmitting money on behalf of a licensee.
- 12 3. "Commissioner" means the commissioner of the department of financial institutions.
- 13 4. "Control" means ownership of, or the power to vote, twenty-five percent or more of the
14 outstanding voting securities of a licensee or controlling person. For purposes of
15 determining the percentage of a licensee controlled by any person, there must be
16 aggregated with the person's interest the interest of any other person controlled by
17 that person or by any spouse, parent, or child of that person.
- 18 5. "Controlling person" means any person in control of a licensee.
- 19 6. "Department" means the department of financial institutions.
- 20 7. "Electronic instrument" means a card or other tangible object for the transmission or
21 payment of money that contains a microprocessor chip, magnetic strip, or other means
22 for the storage of information, that is prefunded and for which the value is
23 decremented upon each use, but does not include a card or other tangible object that
24 is redeemable by the issuer in goods or services provided by the issuer or its affiliates.

- 1 8. "Executive officer" means the licensee's president, chairman of the executive
2 committee, senior officer responsible for the licensee's business, chief financial officer,
3 and any other person who performs similar functions.
- 4 9. "Key shareholder" means any person or group of persons acting in concert who is or
5 are the owner of twenty-five percent or more of any voting class of an applicant's
6 stock.
- 7 10. "Licensee" means a person licensed under this chapter.
- 8 11. "Material litigation" means any litigation that, according to generally accepted
9 accounting principles, is deemed significant to an applicant's or licensee's financial
10 health and would be required to be referenced in that entity's annual audited financial
11 statements, report to shareholders, or similar documents.
- 12 12. "Monetary value" means a medium of exchange, whether or not redeemable in money.
- 13 13. "Money transmission" means to engage in the business of the sale or issuance of
14 payment instruments, stored value, or of receiving money or monetary value for
15 transmission to a location within or outside the United States by any and all means,
16 including wire, facsimile, or electronic transfer. Notwithstanding any other provision of
17 law, "money transmission" also includes bill payment services not limited to the right to
18 receive payment of any claim for another, maintaining control of virtual currency on
19 behalf of others, but does not include payment processing activities conducted for a
20 merchant under an agency relationship.
- 21 14. "Outstanding payment instrument" means any payment instrument issued by the
22 licensee which has been sold in the United States directly by the licensee or any
23 payment instrument issued by the licensee which has been sold by an authorized
24 delegate of the licensee in the United States, which has been reported to the licensee
25 as having been sold, and which has not yet been paid by or for the licensee.
- 26 15. "Payment instrument" means any electronic or written check, draft, money order,
27 traveler's check, or other electronic or written instrument or order for the transmission
28 or payment of money, sold or issued to one or more persons, whether or not such
29 instrument is negotiable. The term "payment instrument" does not include any credit
30 card voucher, any letter of credit, or any instrument that is redeemable by the issuer in
31 goods or services.

- 1 16. "Permissible investments" means:
- 2 a. Cash;
- 3 b. Certificates of deposit or other debt obligations of a financial institution, either
- 4 domestic or foreign;
- 5 c. Bills of exchange or time drafts drawn on and accepted by a commercial bank,
- 6 otherwise known as bankers' acceptances, which are eligible for purchase by
- 7 member banks of the federal reserve system;
- 8 d. Any investment bearing a rating of one of the three highest grades as defined by
- 9 a nationally recognized organization that rates such securities;
- 10 e. Investment securities that are obligations of the United States, its agencies or
- 11 instrumentalities, or obligations that are guaranteed fully as to principal and
- 12 interest of the United States, or any obligations of any state, municipality, or any
- 13 political subdivision thereof;
- 14 f. Shares in a money market mutual fund, interest-bearing bills or notes or bonds,
- 15 debentures or stock traded on any national securities exchange or on a national
- 16 over-the-counter market, or mutual funds primarily composed of such securities
- 17 or a fund composed of one or more permissible investments as set forth herein;
- 18 g. Any demand borrowing agreement or agreements made to a corporation or a
- 19 subsidiary of a corporation whose capital stock is listed on a national exchange;
- 20 h. Receivables that are due to a licensee from its authorized delegates pursuant to
- 21 a contract described in section 13-09-15, which are not past-due or doubtful of
- 22 collection; or
- 23 i. Any other investments or security device approved by the commissioner.
- 24 17. "Remit" means either to make direct payment of the funds to the licensee or its
- 25 representatives authorized to receive those funds, or to deposit the funds in a bank,
- 26 credit union, or savings and loan association or other similar financial institution in an
- 27 account specified by the licensee.
- 28 18. "Stored value" means monetary value that is evidenced by an electronic record.
- 29 19. "Virtual currency" means a digital representation of value used as a medium of
- 30 exchange, a unit of account, or a store of value, but does not have legal tender status
- 31 as recognized by the United States government. Virtual currency does not include the

- 1 software or protocols governing the transfer of the digital representation of value.
- 2 Virtual currency does not include stored value redeemable exclusively in goods or
- 3 services limited to transactions involving a defined merchant, such as rewards
- 4 programs.