

Starting July 1, Kansas Money Transmitter Act Requires Licensure for Certain Agents

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On April 5, 2013, Kansas Governor Sam Brownback signed into law Senate Bill 139, which amends Kansas's Money Transmitter Act to remove the explicit exemption from licensure previously afforded to agents of exempt entities, such as banks, building and loan associations, savings and loan associations, savings banks, and credit unions. The definition of agent under the Act (and the explicit exemption from licensing for agents of exempt entities) was only recently added by Senate Bill 287 in May 2012.

Senate Bill 139 ("SB 139") amends the Kansas Money Transmitter Act (the "Act"), Kan. Stat. §§ 9-508, et seq., to clarify certain definitions and agent requirements and exemptions. Most notably, the amended law distinguishes between agents of money transmitter licensees and agents of other persons exempt from licensing under the Act, such as banks, building and loan associations, savings and loan associations, savings banks, and credit unions organized under the laws of Kansas, another state, or the United States. Thus, beginning July 1, 2013, an agent of an entity previously exempt from licensing under the Act may be subject to licensure if the agent engages in the business of selling, issuing, or delivering payment instruments for the transmission of money for itself or on behalf of an entity or person otherwise exempt from licensure under the Act. Kan. Stat. § 9-509(a).

In Kansas, a money transmitter licensee may engage in the business of money transmission at one or more locations in Kansas through or by means of its designated agents. Kan. Stat. § 9-510. No agent of a licensee is required to comply with the licensing requirements of the Act. *Id.* SB 139 revises the definition of "agent" to mean "either a person receiving funds from a Kansas resident and forwarding such funds to a licensee to effectuate money transmission or a person designated to otherwise engage in the business of money transmission on behalf of the licensee at one or more physical locations throughout the state or through the internet, regardless of whether such person would be exempt from the act by conducting money transmission on such person's own behalf." Kan. Stat. § 9-508(a). The revised definition of "agent" no longer includes an entity or person designated by an exempt entity to engage in money transmission on behalf of such exempt entity. *Id.* In addition, SB139 revises the Act to specifically provide that "no person acting as an agent for an exempt entity shall be exempt from licensing provisions of this [A]ct" (Kan. Stat. § 9-510(2)(B)), and that a person accepting a consumer's funds for transmission through an exempt entity is a money transmitter and subject to the provisions of the Act (Kan. Stat. § 9-510(3)).

SB 139 also amends the Act to provide that no agent may appoint a subagent to perform money transmission services, unless such subagent is an exempt entity or licensed under the Act. Kan. Stat. § 9-510(2). SB 139 also requires a written contract between the licensee and each agent, which includes certain provisions, such as (a) the agent must operate in full compliance with the Act and the rules and regulations adopted thereunder; (b) the agent is prohibited from using subagents or conducting money transmission business from locations that have not been approved by the licensee; and (c) a description of the specific money services the licensee has permitted the agent to perform on behalf of the licensee. Kan. Stat. § 9-510(5). An agent may only conduct activities specifically authorized in the written contract, unless the agent is a licensee or otherwise exempt from licensing under the Act. Kan. Stat. § 9-510(6).

Sections 9-510 and 9-511 of the Act expressly exempt the following persons from the licensing provisions of the Act:

- banks, building and loan associations, savings and loan associations, savings banks or credit unions, organized under the laws of and subject to supervision of this state, another state or the United States;
- the government of the United States and its agencies, including agents of the government and its agencies;
- the state of Kansas and its agencies, including agents of the state of Kansas and its agencies; and
- agents of licensees designated pursuant to Section 9-510 of the Act.

[Click here to read a copy of the Kansas Senate Bill 139.](#)

For more information about the Act, please contact the Pillsbury attorney with whom you regularly work or one of the authors of this alert:

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