***Effective 5/12/2015***

## Part 4
## Enforcement

### 7-25-401 Examinations.

(1)
(a) The commissioner may conduct periodic on-site examinations of a licensee. The commissioner may examine a licensee's authorized or apparent agents. At the commissioner's discretion, written notice of the examination may be provided to the licensee or an authorized or apparent agent.
(b) In conducting an examination, the commissioner or the commissioner's staff:
(i) shall have full and free access to all the records of the licensee and its authorized or apparent agents; and
(ii) may summon and qualify as witnesses, under oath, and examine the directors, officers, members, agents, and employees of a licensee or authorized or apparent agent, and any other person concerning the condition and affairs of the licensee.
(c) In accordance with Section 7-1-401, the licensee shall pay the reasonable costs of an examination under this section.
(d) An on-site examination may be conducted in conjunction with examinations to be performed by representatives of agencies of another state or states.
(e) The commissioner, in lieu of an on-site examination, may accept the examination report of an agency of another state, or a report prepared by an independent accounting firm, and a report so accepted is considered for all purposes as an official report of the commissioner.
(2) Upon reasonable cause, the commissioner may conduct an on-site examination of an unlicensed person to determine whether violations of this chapter have occurred or are occurring. In conducting the examination, the commissioner has the applicable powers provided pursuant to Section 7-25-204.

Enacted by Chapter 284, 2015 General Session

### 7-25-402 Confidentiality of information.

(1) Information obtained by the commissioner under this chapter is confidential in accordance with Section 7-1-802.
(2) Subsection (1) does not prohibit the commissioner from releasing to the public a list of persons licensed under this chapter or from releasing aggregated financial data on the licensees.

Enacted by Chapter 284, 2015 General Session

### 7-25-403 Termination or suspension of authorized agent activity.

(1)
(a) The commissioner may issue an order suspending or barring an authorized agent from continuing to be or becoming an authorized agent of a licensee during the period for which the order is in effect, if subject to Title 63G, Chapter 4, Administrative Procedures Act, the commissioner finds that an authorized agent of a licensee or a director, officer, employee, or controlling person of the authorized agent has:
(i) violated this chapter or a rule or order issued under this chapter;

(ii) engaged or participated in an unsafe or unsound act with respect to the business of selling or issuing payment instruments of the licensee or the business of money transmission; or

(iii) made or caused to be made in an application or report filed with the commissioner or a proceeding before the commissioner, a statement that was at the time and in the circumstances under which it was made, false or misleading with respect to a material fact, or has omitted to state in the application or report a material fact that is required to be stated in the application or report.

(b) Upon issuance of the order, the licensee shall terminate its relationship with the authorized agent according to the terms of the order.

(2) An authorized agent to whom an order is issued under this section may apply to the commissioner to modify or rescind the order. The commissioner may not grant the application unless the commissioner finds that it is in the public interest to do so and that it is reasonable to believe that the person will, if and when the person is permitted to resume being an authorized agent of a licensee, comply with all applicable provisions of this chapter and a rule or order issued under this title.

Enacted by Chapter 284, 2015 General Session

**7-25-404 Licensee liability.**

A licensee's responsibility to a person who purchases a payment instrument or money transmission transaction from a licensee or a licensee's authorized agent is limited to the face amount of the payment instrument or money transmission transaction purchased.

Enacted by Chapter 284, 2015 General Session

**7-25-405 Criminal and civil penalties.**

(1) A person who violates this chapter or who files materially false information with a license application or renewal under this chapter is:

(a) guilty of a class B misdemeanor; and

(b) subject to revocation of the person's license under this chapter.

(2) Subject to Title 63G, Chapter 4, Administrative Procedures Act, if the commissioner determines that a person is engaging in the business of money transmission in violation of this chapter, the commissioner may:

(a) suspend, revoke, or not renew that person's license under this chapter;

(b) issue a cease and desist order from committing any further violation;

(c) prohibit the person from continuing to engage in the business of money transmission;

(d) impose an administrative fine not to exceed $1,000 per violation, except that the aggregate total of fines imposed under this chapter against a person in a calendar year may not exceed $30,000 for that calendar year; or

(e) take any combination of actions listed under this Subsection (2).

(3) If the commissioner revokes a license, the department is not required to refund any portion of the licensee's filing or renewal fee for the remainder of the period for which the fee is paid.

Enacted by Chapter 284, 2015 General Session

**7-25-406 Consent orders -- Emergency order.**

(1) The commissioner may enter into consent orders at any time with any person to resolve any matter arising under this chapter. A consent order must be signed by the person to whom it is

issued or a duly authorized representative, and must indicate agreement to the terms contained in the consent order. A consent order need not constitute an admission by any person that any provision of this chapter, or any rule or order made or issued under this chapter, has been violated, nor need it constitute a finding by the commissioner that the person has violated any provision of this chapter or any rule or order made or issued under this chapter.

(2) Notwithstanding the issuance of a consent order, the commissioner may seek civil or criminal penalties or compromise civil penalties concerning matters encompassed by the consent order.

(3) In cases involving extraordinary circumstances requiring immediate action, the commissioner may take any enforcement action authorized by this chapter without providing the opportunity for a prior hearing, but shall promptly afford a subsequent hearing upon an application to rescind the action taken, which is filed with the commissioner within 20 days of the receipt of the notice of the commissioner's emergency action.

Enacted by Chapter 284, 2015 General Session

**7-25-407 Required deposits.**

If the commissioner finds any reasonable cause to believe that a licensee is in an unsafe or unsound condition or is unwilling or unable to pay its payment instruments when they come due, it may require the licensee to deposit funds in a financial institution acceptable to the commissioner in such amounts, for such period, and upon such conditions as the commissioner may specify, and may prohibit the licensee from issuing payment instruments for sale in Utah in an aggregate unpaid amount exceeding the amount of any such required deposit or the amount actually deposited pursuant to such a requirement, whichever is less.

Enacted by Chapter 284, 2015 General Session