Assembly Bill No. 430–Assemblymembers Flanagan; Brown-May, D'Silva and Nguyen

CHAPTER..........

AN ACT relating to money transmission; exempting a person engaged solely in the provision of payroll processing services from provisions governing the licensure and regulation of persons engaged in money transmission; repealing provisions imposing certain duties on persons engaged in the provision of payroll processing services; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the licensure and regulation by the Commissioner of Financial Institutions of persons engaged in money transmission. (Chapter 671 of NRS) Existing law defines "money transmission" to include payroll processing services, thereby requiring a person engaged solely in the provision of payroll processing services to be licensed by the Commissioner. (NRS 671.013) **Section 1** of this bill removes provisions which include the provision of payroll processing services within the definition of money transmission. **Section 2** of this bill exempts a person engaged solely in the provision of payroll processing services from the provisions governing money transmission. As such, under **sections 1 and 2**, a person engaged solely in the provision of payroll processing services is not required to obtain a license from the Commissioner, under the provisions of existing law governing money transmission, to engage in the provision of payroll processing services.

Section 3 of this bill repeals provisions setting forth certain duties of persons engaged in the provision of payroll processing services.

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 671.013 is hereby amended to read as follows:

671.013 1. "Money transmission" means any of the following:

(a) Selling or issuing payment instruments to a person located in this State.

(b) Selling or issuing stored value to a person located in this State.

(c) Receiving money or credits for transmission from a person located in this State.

2. ~~[The term includes payroll processing services.~~

~~3.]~~ The term does not include the provision solely of online or telecommunications services or network access.

Sec. 2. NRS 671.020 is hereby amended to read as follows:

671.020 Except as otherwise provided in NRS 671.155, this chapter does not apply to any:

1. Federally insured depository financial institution, privately insured depository financial institution, bank holding company or any subsidiary thereof, office of an international banking corporation, foreign bank that establishes a federal branch pursuant to 12 U.S.C. § 3102, as amended, corporation organization pursuant to 12 U.S.C. §§ 1861 to 1867, inclusive, as amended, or corporation organized pursuant to 12 U.S.C. §§ 611 to 633, inclusive, as amended, under the laws of a state or of the United States.

2. Operator of a payment system to the extent that it provides processing, clearing or settlement services between or among persons exempted pursuant to this section or licensees in connection with wire transfers, credit card transactions, debit card transactions, stored value transactions, automated clearinghouse transfers or similar transfers of money.

3. Person appointed as an agent of a payee to collect and process a payment from a payor to the payee for goods or services, other than money transmission, provided to the payor by the payee, so long as:

(a) A written agreement exists between the payee and the agent directing the agent to collect and process payments from payors on behalf of the payee;

(b) The payee holds the agent out to the public as accepting payments for goods or services on behalf of the payee; and

(c) Payment for the goods and services is treated as received by the payee upon receipt by the agent so that the obligation of the payor is extinguished and there is no risk of loss to the payor if the agent fails to remit the money to the payee.

4. Person that acts as an intermediary by processing payments between an entity that has directly incurred an outstanding money transmission obligation to a sender and the designated recipient of the sender, so long as the entity:

(a) Is a licensee or exempt from licensure pursuant to this chapter;

(b) Provides a receipt, electronic record or other written confirmation to the sender identifying the entity as the provider of money transmission in the transaction; and

(c) Bears sole responsibility to satisfy the outstanding money transmission obligation to the sender, including, without limitation, the obligation to make the sender whole in connection with any failure to transmit the money to the designated recipient of the sender.

5. Department, agency, instrumentality or agent of the United States.

6. State, county, city or any other governmental agency, subdivision, instrumentality or agent of a state.

7. Money transmission by the United States Postal Service or by an agent of the United States Postal Service.

8. Trust company that is licensed or otherwise authorized to engage in the business of a trust company in this State pursuant to chapter 669 of NRS.

9. Electronic money transfer of governmental benefits for a federal, state, county or governmental agency by a contractor on behalf of the United States or a department, agency or instrumentality thereof or on behalf of a state or governmental subdivision, agency or instrumentality thereof.

10. Board of trade designated as a contract market under the Commodity Exchange Act, 7 U.S.C. §§ 1 et seq., as amended, 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 the board of trade.

11. Registered futures commission merchant under the federal commodities laws to the extent of its operation as such a merchant.

12. Person registered as a securities broker-dealer under federal or state securities laws to the extent of the operations of the person as such a securities broker-dealer.

13. Natural person employed by a licensee, authorized delegate or any person exempt from licensure pursuant to this section when acting within the scope of employment and under the supervision of the licensee, authorized delegate or exempt person as an employee and not as an independent contractor.

14. Person expressly appointed as a third-party service provider to or agent of an entity exempt pursuant to subsection 1 to the extent that:

(a) The third-party service provider or agent is engaging in money transmission on behalf of and pursuant to a written agreement with the exempt entity that sets forth the specific functions that the third-party service provider or agent is to perform; and

(b) The exempt entity assumes all risk of loss and legal responsibility for satisfying the outstanding money transmission obligations owed to purchasers and holders of the outstanding money transmission obligations upon receipt by the third-party service provider of the money or monetary value of the purchaser or holder.

15. Employer who performs payroll services on his or her own behalf or on behalf of an affiliate of an employer.

16. Professional employer organization, as defined in NRS 611.400, who performs payroll services.

17. Provider who is licensed pursuant to chapter 604D of NRS.

18. ***Person engaged solely in the provision of payroll processing services.***

19. Person exempt by regulation or order of the Commissioner pursuant to NRS 671.0205.

Sec. 3. NRS 671.275 is hereby repealed.

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