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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

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A N A C T

RELATING TO FINANCIAL INSTITUTIONS -- LICENSED ACTIVITIES--CURRENCY
TRANSMISSIONS

Introduced By: Representatives Shekarchi, Solomon, Speakman, Blazejewski, and
Noret

Date Introduced: March 14, 2019

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 19-14-1, 19-14-2, 19-14-4, 19-14-5, 19-14-6 and 19-14-26 of the
2 General Laws in Chapter 19-14 entitled "Licensed Activities" are hereby amended to read as
3 follows:

4 **19-14-1. Definitions.**

5 Unless otherwise specified, the following terms shall have the following meanings
6 throughout chapters 14, 14.1, 14.2, 14.3, 14.4, 14.6, 14.8, 14.10, and 14.11 of this title:

7 (1) "Bona fide employee" shall mean an employee of a licensee who works under the
8 oversight and supervision of the licensee.

9 (2) "Check" means any check, draft, money order, personal money order, or other
10 instrument for the transmission or payment of money. For the purposes of check cashing,
11 travelers checks or foreign denomination instruments shall not be considered checks. "Check
12 cashing" means providing currency for checks.

13 (3) "Check casher" means a person or entity who or that, for compensation, engages, in
14 whole or in part, in the business of cashing checks.

15 (4) "Currency transmission" means engaging in the business of any of the following:

16 (i) Sale or issuance of payment instruments or stored value primarily for personal, family,
17 or household purposes; or

18 (ii) Receiving money or monetary value for transmission or holding funds incidental to

1 transmission within the United States or to locations abroad by any and all means, including
2 payment instrument, stored value, wire, facsimile, or electronic transfer, primarily for personal,
3 family, or household purposes. This includes maintaining control of virtual currency or
4 transactions in virtual currency on behalf of others.

5 ~~(4)~~(5) "Deferred-deposit transaction" means any transaction, such as those commonly
6 known as "payday loans", "payday advances", or "deferred-presentment loans", in which a cash
7 advance is made to a customer in exchange for the customer's personal check or in exchange for
8 the customer's authorization to debit the customer's deposit account and where the parties agree
9 either that the check will not be cashed or deposited, or that the customer's deposit account will
10 not be debited until a designated future date.

11 ~~(5)~~(6) "Deliver" means to deliver a check to the first person who, in payment for the
12 check, makes, or purports to make, a remittance of, or against, the face amount of the check,
13 whether or not the deliverer also charges a fee in addition to the face amount and whether or not
14 the deliverer signs the check.

15 ~~(6) "Electronic money transfer" means receiving money for transmission within the~~
16 ~~United States or to locations abroad by any means including, but not limited to, wire, facsimile, or~~
17 ~~other electronic transfer system.~~

18 (7) "Insurance premium finance agreement" means an agreement by which an insured, or
19 prospective insured, promises to pay to an insurance premium finance company the amount
20 advanced, or to be advanced, under the agreement to an insurer or to an insurance producer, in
21 payment of a premium, or premiums, on an insurance contract, or contracts, together with interest
22 and a service charge, as authorized and limited by this title.

23 (8) "Insurance premium finance company" means a person or entity engaged in the
24 business of making insurance premium finance agreements or acquiring insurance premium
25 finance agreements from other insurance premium finance companies.

26 (9)(i) "Lender" means any person who makes or funds a loan within this state with the
27 person's own funds, regardless of whether the person is the nominal mortgagee or creditor on the
28 instrument evidencing the loan;

29 (ii) A loan is made or funded within this state if any of the following conditions exist:

30 (A) The loan is secured by real property located in this state;

31 (B) An application for a loan is taken by an employee, agent, or representative of the
32 lender within this state;

33 (C) The loan closes within this state;

34 (D) The loan solicitation is done by an individual with a physical presence in this state; or

1 (E) The lender maintains an office in this state.

2 (iii) The term "lender" shall also include any person engaged in a transaction whereby the
3 person makes or funds a loan within this state using the proceeds of an advance under a line of
4 credit over which proceeds the person has dominion and control and for the repayment of which
5 the person is unconditionally liable. This transaction is not a table-funding transaction. A person
6 is deemed to have dominion and control over the proceeds of an advance under a line of credit
7 used to fund a loan regardless of whether:

8 (A) The person may, contemporaneously with, or shortly following, the funding of the
9 loan, assign or deliver to the line of credit lender one or more loans funded by the proceeds of an
10 advance to the person under the line of credit;

11 (B) The proceeds of an advance are delivered directly to the settlement agent by the line-
12 of-credit lender, unless the settlement agent is the agent of the line-of-credit lender;

13 (C) One or more loans funded by the proceeds of an advance under the line of credit is
14 purchased by the line-of-credit lender; or

15 (D) Under the circumstances, as set forth in regulations adopted by the director, or the
16 director's designee, pursuant to this chapter.

17 (10) "Licensee" means any person licensed under this chapter.

18 (11) "Loan" means any advance of money or credit including, but not limited to:

19 (i) Loans secured by mortgages;

20 (ii) Insurance premium finance agreements;

21 (iii) The purchase or acquisition of retail installment contracts or advances to the holders
22 of those contracts;

23 (iv) Educational loans;

24 (v) Any other advance of money; or

25 (vi) Any transaction, such as those commonly known as "payday loans", "payday
26 advances", or "deferred-presentment loans", in which a cash advance is made to a customer in
27 exchange for the customer's personal check, or in exchange for the customer's authorization to
28 debit the customer's deposit account, and where the parties agree either, that the check will not be
29 cashed or deposited, or that customer's deposit account will not be debited, until a designated
30 future date.

31 (12) "Loan broker" means any person or entity who or that, for compensation or gain, or
32 in the expectation of compensation or gain, either directly or indirectly, solicits, processes,
33 negotiates, places, or sells a loan within this state for others in the primary market, or offers to do
34 so. A loan broker shall also mean any person who is the nominal mortgagee or creditor in a table-

1 funding transaction. A loan is brokered within this state if any of the following conditions exist:

2 (i) The loan is secured by real property located in this state;

3 (ii) An application for a loan is taken or received by an employee, agent, or representative
4 of the loan broker within this state;

5 (iii) The loan closes within this state;

6 (iv) The loan solicitation is done by an individual with a physical presence in this state; or

7 (v) The loan broker maintains an office in this state.

8 (13) "Loan-closing services" means providing title services, including title searches, title
9 examinations, abstract preparation, insurability determinations, and the issuance of title
10 commitments and title insurance policies, conducting loan closings, and preparation of loan-
11 closing documents when performed by, or under the supervision of, a licensed attorney, licensed
12 title agency, or licensed title insurance company.

13 (14) "Loan solicitation" shall mean an effectuation, procurement, delivery and offer, and
14 advertisement of a loan. Loan solicitation also includes providing or accepting loan applications
15 and assisting persons in completing loan applications and/or advising, conferring, or informing
16 anyone regarding the benefits, terms and/or conditions of a loan product or service. Loan
17 solicitation does not include loan processing or loan underwriting as defined in this section. Loan
18 solicitation does not include telemarketing that is defined, for purposes of this section, to mean
19 contacting a person by telephone with the intention of collecting such person's name, address, and
20 telephone number for the sole purpose of allowing a mortgage loan originator to fulfill a loan
21 inquiry.

22 (15) "Loan underwriting" shall mean a loan process that involves the analysis of risk with
23 respect to the decision whether to make a loan to a loan applicant based on credit, employment,
24 assets, and other factors, including evaluating a loan applicant against a lender's various lending
25 criteria for creditworthiness, making a determination for the lender as to whether the applicant
26 meets the lender's pre-established credit standards, and/or making a recommendation regarding
27 loan approval.

28 (16) "Monetary value" means a medium of exchange, whether or not redeemable in fiat
29 currency.

30 ~~(16)~~(17) "Mortgage loan" means a loan secured in whole, or in part, by real property
31 located in this state.

32 ~~(17)~~(18) "Mortgage loan originator" has the same meaning set forth in § 19-14.10-3(6).

33 ~~(18)~~(19) "Nationwide Multi-state ~~licensing system~~ Licensing System" means a system
34 involving more than one ~~or more states~~ state, the District of Columbia, or the Commonwealth of

1 Puerto Rico and which is established to facilitate the sharing of regulatory information and the
2 licensing, application, reporting, and payment processes, by electronic or other means, for
3 mortgage lenders and loan brokers and other licensees required to be licensed under this chapter.

4 ~~(19)~~(20) "Natural person employee" shall mean any natural person performing services as
5 a bona fide employee for a person or entity licensed under § 19-14-1 et seq., in return for a salary,
6 wage, or other consideration, where such salary, wage, or consideration is reported by the
7 licensee on a federal form W-2 payroll record. The term does not include any natural person or
8 business entity performing services for a person licensed under the provisions of Rhode Island
9 general laws in return for a salary, wage, or other consideration, where such salary, wage, or
10 consideration is reported by the licensee on a federal form 1099.

11 ~~(20)~~(21) "Negative equity" means the difference between the value of an asset and the
12 outstanding portion of the loan taken out to pay for the asset, when the latter exceeds the former
13 amount.

14 ~~(21)~~(22) "Negotiates" shall mean, with respect to a loan, to confer directly with, or offer
15 advice directly to, a loan applicant or prospective loan applicant for a loan product or service
16 concerning any of the substantive benefits, terms, or conditions of the loan product or service.

17 ~~(22)~~(23) "Nonprofit organization" means a corporation qualifying as a 26 U.S.C. §
18 501(c)(3) nonprofit organization, in the operation of which no member, director, officer, partner,
19 employee, agent, or other affiliated person profits financially other than receiving reasonable
20 salaries if applicable.

21 ~~(23)~~(24) "Operating subsidiary" shall mean a majority-owned subsidiary of a financial
22 institution or banking institution that engages only in activities permitted by the parent financial
23 institution or banking institution.

24 ~~(24)~~(25) "Oversight and supervision of the licensee" shall mean that the licensee provides
25 training to the employee, sets the employee's hours of work, and provides the employee with the
26 equipment and physical premises required to perform the employee's duties.

27 ~~(25)~~(26) "Personal money order" means any instrument for the transmission or payment
28 of money in relation to which the purchaser or remitter appoints, or purports to appoint, the seller
29 as his or her agent for the receipt, transmission, or handling of money, whether the instrument is
30 signed by the seller, or by the purchaser, or remitter, or some other person.

31 ~~(26)~~(27) "Primary market" means the market in which loans are made to borrowers by
32 lenders, whether or not through a loan broker or other conduit.

33 ~~(27)~~(28) "Principal owner" means any person or entity who or that owns, controls, votes,
34 or has a beneficial interest in, directly or indirectly, ten percent (10%) or more of the outstanding

1 capital stock and/or equity interest of a licensee.

2 ~~(28)~~(29) "Processes" shall mean, with respect to a loan, any of a series of acts or
3 functions, including the preparation of a loan application and supporting documents, performed
4 by a person that leads to, or results in, the acceptance, approval, denial, and/or withdrawal of a
5 loan application, including, without limitation, the rendering of services, including loan
6 underwriting, obtaining verifications, credit reports or appraisals, communicating with the
7 applicant and/or the lender or loan broker, and/or other loan processing and origination services,
8 for consideration by a lender or loan broker. Loan processing does not include the following:

- 9 (i) Providing loan closing services;
- 10 (ii) Rendering of credit reports by an authorized credit reporting agency; and
- 11 (iii) Rendering of appraisal services.

12 ~~(29)~~(30) "Provisional employee" means a natural person who, pursuant to a written
13 agreement between the natural person and a wholly owned subsidiary of a financial holding
14 company, as defined in the Bank Holding Company Act of 1956 (12 U.S.C. § 1841 et seq.), as
15 amended, a bank-holding company, savings-bank-holding company, or thrift-holding company, is
16 an exclusive agent for the subsidiary with respect to mortgage loan originations and the
17 subsidiary: (a) Holds a valid loan broker's license; and (b) Enters into a written agreement with
18 the director, or the director's designee, to include:

- 19 (i) An "undertaking of accountability", in a form prescribed by the director, or the
20 director's designee, for all of the subsidiary's exclusive agents to include full-and-direct financial
21 and regulatory responsibility for the mortgage loan originator activities of each exclusive agent as
22 if said exclusive agent were an employee of the subsidiary;
- 23 (ii) A business plan, to be approved by the director, or the director's designee, for the
24 education of the exclusive agents, the handling of consumer complaints related to the exclusive
25 agents, and the supervision of the mortgage loan origination activities of the exclusive agents; and
- 26 (iii) A restriction of the exclusive agents' mortgage loan originators' activities to loans to
27 be made only by the subsidiary's affiliated bank.

28 ~~(30)~~(31) "Sell" means to sell, to issue, or to deliver a check.

29 ~~(31)~~(32) "Servicing" means receiving a scheduled, periodic payment from a borrower,
30 pursuant to the terms of a loan, including amounts for escrow accounts, and making the payments
31 to the owner of the loan or other third party of principal and interest and other payments with
32 respect to the amounts received from the borrower as may be required pursuant to the terms of the
33 servicing loan documents or servicing contract. In the case of a home equity conversion mortgage
34 or a reverse mortgage, servicing includes making payment to the borrower.

1 ~~(32)~~(33) "Simple interest" means interest computed on the principal balance outstanding
2 immediately prior to a payment for one plus the actual number of days between payments made
3 on a loan over the life of a loan.

4 ~~(33)~~(34) "Small loan" means a loan of less than five thousand dollars (\$5,000), not
5 secured by real estate, made pursuant to the provisions of chapter 14.2 of this title.

6 ~~(34)~~(35) "Small-loan lender" means a lender engaged in the business of making small
7 loans within this state.

8 (36) "Stored value" means monetary value representing a claim against the issuer that is
9 stored on an electronic or digital medium and is evidenced by an electronic or digital record, and
10 that is intended and accepted for use as a means of redemption for money or monetary value or
11 payment for goods or services. The term does not include stored value that is redeemable by the
12 issuer exclusively in goods or services; stored value that is redeemable exclusively in goods or
13 services limited to transactions involving a defined merchant or location or set of locations, such
14 as a specific retailer or retail chain, college campus, or program points, miles, or other units
15 issued in connection with a customer affinity or rewards program, even if there is a secondary
16 market for the stored value.

17 ~~(35)~~(37) "Table-funding transaction" means a transaction in which there is a
18 contemporaneous advance of funds by a lender and an assignment by the mortgagee or creditor of
19 the loan to the lender.

20 ~~(36)~~(38) "Third-party loan servicer" means a person or entity who or that, directly or
21 indirectly, engages in the business of servicing a loan secured by residential real estate located in
22 Rhode Island, for a personal, family, or household purpose, owed or due, or asserted to be owed
23 or due, another, or a person or entity that owns the servicing rights to a loan secured by residential
24 real estate located in Rhode Island whether or not that owner services the loan themselves or
25 contracts with another person or entity for the servicing.

26 (39) "Virtual currency":

27 (i) Means a digital representation of value that:

28 (A) Is used as a medium of exchange, unit of account, or store of value; and

29 (B) Is not legal tender, whether or not denominated in legal tender; and

30 (ii) Does not include:

31 (A) A transaction in which a merchant grants, as part of an affinity or rewards program,
32 value that cannot be taken from or exchanged with the merchant for legal tender, bank credit, or
33 virtual currency;

34 (B) A digital representation of value issued by or on behalf of a publisher and used solely

1 [within an online game, game platform, or family of games sold by the same publisher or offered](#)
2 [on the same game platform; or](#)

3 [\(C\) Native digital token used in a proprietary blockchain service platform.](#)

4 ~~(37)~~(40) "Writing" means hard-copy writing or electronic writing that meets the
5 requirements of § 42-127.1-2(7).

6 **19-14-2. Licenses required.**

7 (a) No person shall engage within this state in the business of: (1) Making or funding
8 loans or acting as a lender or small loan lender; (2) Brokering loans or acting as a loan broker; (3)
9 Selling checks for a fee or other consideration, [providing currency transmission for a fee or other](#)
10 [consideration](#); (4) Cashing checks for a fee or other consideration, which includes any premium
11 charged for the sale of goods in excess of the cash price of the goods; ~~(5) Providing electronic~~
12 ~~money transfers for a fee or other consideration;~~ ~~(6)~~(5) Providing debt-management services;
13 ~~(7)~~(6) Performing the duties of a mortgage-loan originator; ~~(8)~~(7) Servicing a loan, directly or
14 indirectly, as a third-party loan servicer without first obtaining a license or registration from the
15 director or the director's designee. The licensing requirement for any person providing debt-
16 management plans shall apply to all persons, without regard for state of incorporation or a
17 physical presence in this state, who initiate or service debt-management plans for residents of this
18 state. Special exemptions from licensing for each activity are contained in other chapters in this
19 title.

20 (b) No lender or loan-broker licensee shall permit an employee to act as a mortgage loan
21 originator without first verifying that such originator is licensed under this chapter. No individual
22 may act as a mortgage-loan originator without being licensed, or act as a mortgage-loan
23 originator for more than one person. The license of a mortgage-loan originator is not effective
24 during any period when such mortgage-loan originator is not associated with a lender or loan-
25 broker licensee.

26 (c) Each loan negotiated, solicited, placed, found, or made without a license as required
27 in subsection (a) shall constitute a separate violation for purposes of this chapter.

28 (d) No person engaged in the business of making or brokering loans in this state, whether
29 licensed in accordance with the provisions of this chapter or exempt from licensing, shall accept
30 applications, or referral of applicants from, or pay a fee to, any lender, loan broker, or mortgage-
31 loan originator who is required to be licensed or registered under said sections but is not licensed
32 to act as such by the director, or the director's designee.

33 [\(e\) No person except those exempt pursuant to § 19-14.3-1 shall engage in the business of](#)
34 [currency transmission in this state without a license as provided in this chapter.](#)

1 (f) A currency transmission licensee may conduct its business in this state at one or more
2 locations, directly or indirectly owned, or through one or more authorized delegates, or both,
3 pursuant to the license granted under this chapter.

4 (g) For the purposes of this chapter, a person is considered to be engaged in the business
5 of currency transmission in this state if that person solicits or advertises currency transmission
6 services from a website that Rhode Island residents may access in order to enter into those
7 transactions by electronic means.

8 **19-14-4. Annual fee.**

9 (a) Each licensee shall pay an annual license fee as follows:

10 (1) Each small-loan lender license and each branch certificate, the sum of five hundred
11 fifty dollars (\$550);

12 (2) Each loan-broker license and each branch certificate, the sum of five hundred fifty
13 dollars (\$550);

14 (3) Each lender license and each branch certificate, the sum of one thousand one hundred
15 dollars (\$1,100);

16 (4) Each ~~sale of checks~~ currency transmission license, the sum of ~~three hundred sixty~~
17 ~~dollars (\$360)~~ one thousand dollars (\$1,000);

18 (5) Each check cashing license, the sum of three hundred sixty dollars (\$360);

19 (6) ~~Each electronic money transfer license, the sum of three hundred sixty dollars (\$360);~~

20 (7) Each registration to provide debt-management services, the sum of two hundred
21 dollars (\$200);

22 (8) Each mortgage-loan originator license, the sum of ~~one hundred dollars (\$100)~~ five
23 hundred dollars (\$500); and

24 (9) Each third-party loan-servicer license and each branch certificate, the sum of one
25 thousand one hundred dollars (\$1,100).

26 (b) Any licensee who shall not pay the annual fee by December 31 of each year shall be
27 subject to a daily penalty of twenty-five dollars (\$25) per day, subject to a maximum of seven
28 hundred fifty dollars (\$750). The penalty shall be paid to the director to, and for the use of, the
29 state. The penalty may be waived for good cause by the director, or the director's designee, upon
30 written request.

31 **19-14-5. Minimum capital.**

32 Each licensee, licensed pursuant to an application for license filed after June 30, 1995,
33 shall maintain the following minimum-net worth to be evidenced in accordance with regulations
34 promulgated by the director, or the director's designee.

- 1 (1) Small-loan lenders, the sum of twenty-five thousand dollars (\$25,000);
- 2 (2) Loan brokers, the sum of ten thousand dollars (\$10,000);
- 3 (3) Lenders, the sum of one hundred thousand dollars (\$100,000);
- 4 (4) ~~Sale-of-checks~~ Currency transmission licensees, the sum of fifty thousand dollars
- 5 (\$50,000). If a licensee limits its actions to virtual currency the licensee may include in its
- 6 calculation of net worth virtual currency, measured by the average value of the virtual currency in
- 7 U.S. Dollar equivalent over the prior six (6) months; and
- 8 (5) Third-party loan servicers, the sum of one hundred thousand dollars (\$100,000).

9 **19-14-6. Bond of applicant.**

10 (a) An applicant for any license shall file with the director, or the director's designee, a

11 bond to be approved by him or her in which the applicant shall be the obligor.

12 (b) The amount of the bond shall be as follows:

- 13 (1) Small-loan lenders, the sum of ten thousand dollars (\$10,000);
- 14 (2) Loan brokers, the sum of twenty thousand dollars (\$20,000);
- 15 (3) Lenders, the sum of fifty thousand dollars (\$50,000);
- 16 (4) ~~Sale-of-checks-and-electronic-money-transfer~~ Currency transmission licensees, the
- 17 sum of fifty thousand dollars (\$50,000) ~~subject to a maximum of one hundred and fifty thousand~~
- 18 ~~dollars (\$150,000) when aggregated with agent locations;~~
- 19 (5) Check-cashing licensees who accept checks for collection with deferred payment, the
- 20 sum of fifty thousand dollars (\$50,000) subject to a maximum of one hundred and fifty thousand
- 21 dollars (\$150,000) when aggregated with agent locations;
- 22 (6) ~~Foreign-exchange licensees, the sum of ten thousand dollars (\$10,000);~~
- 23 (7) ~~The amounts listed above apply to licensees with zero (0) to three (3) branch or agent~~
- 24 ~~locations. Licensees with four (4) to seven (7) branches shall post a bond, as indicated above, and~~
- 25 ~~an additional bond in the sum of ten thousand dollars (\$10,000). Licensees with eight (8) or more~~
- 26 ~~branches shall post a bond, as indicated above, and an additional bond in the sum of twenty five~~
- 27 ~~thousand dollars (\$25,000);~~
- 28 (8) Each debt-management services registrant, the amount provided in § 19-14.8-13; or
- 29 (9) Each third-party loan servicer, the sum of fifty thousand dollars (\$50,000).

30 (c) The bond shall run to the state for the use of the state and of any person who may

31 have cause of action against the obligor of the bond under the provisions of this title. The bond

32 shall be perpetual and shall be conditioned upon the obligor faithfully conforming to, and abiding

33 by, the provisions of this title and of all rules and regulations lawfully made, and the obligor will

34 pay to the state and to any person any and all money that may become due or owing to the state or

1 to the person from the obligor under, and by virtue of, the provisions of this title.

2 (d) ~~The provisions of subsection (b)(6) shall not apply to any foreign exchange business~~
3 ~~holding a valid, electronic money transfer license issued pursuant to § 19-14-1 et seq., that has~~
4 ~~filed with the division of banking the bond required by subsections (b)(4) and (b)(7).~~

5 (e) The bond shall remain in force and effect until the surety is released from liability by
6 the director, or the director's designee, or until the bond is cancelled by the surety. The surety
7 may cancel the bond and be released from further liability under the bond upon receipt by the
8 director, or the director's designee, of ~~written~~ notice in a manner satisfactory to the director,
9 including, but not limited to, for documentation purpose of the cancellation of the bond at least
10 thirty (30) days in advance of the cancellation of the bond. The cancellation shall not affect any
11 liability incurred or accrued under the bond before the termination of the thirty-day (30) period.
12 ~~Upon receipt of any notice of cancellation, the director shall provide written notice to the~~
13 ~~licensee.~~

14 (f) Upon receipt of any notice of cancellation, the director may provide ~~written~~ notice to
15 the licensee requiring reinstatement or replacement of the bond. Unless the bond is reinstated by
16 the surety, or a satisfactory replacement bond is filed with the director prior to the cancellation of
17 the original bond, the license shall be suspended. The licensee will be provided notice of the
18 suspension and may request a hearing within thirty (30) days. If the licensee does not request a
19 hearing, the director, or director's designee, shall issue an order revoking the license for failure to
20 comply with this section.

21 **19-14-26. Penalty for violations.**

22 ~~Any person and the several members, officers, directors, agents, and employees of any~~
23 ~~person who violate or participate~~ (a) If a person other than a licensee engages in activity for
24 which licensure is required by this title with or on behalf of a resident in violation of this chapter,
25 the department may assess a civil penalty against the person in an amount not to exceed fifty
26 thousand dollars (\$50,000) for each day of violation and/or may order that the person cease and
27 desist from all activities requiring licensure.

28 (b) If a licensee materially violates or participates in the violation of any of the applicable
29 provisions of this title, or any regulation promulgated under this title, ~~is guilty of a misdemeanor~~
30 ~~and upon conviction shall be punished by a fine~~ the department may assess a civil penalty of not
31 more than one thousand dollars (\$1,000) for each violation or in the case of identifiable measured
32 transactions per transaction, or by imprisonment not exceeding one year, or both. Each violation
33 constitutes a separate offense. Complaints under the provisions of this chapter may be made by
34 the director, or the director's designee, and shall not be required to give surety for costs. The

1 attorney general shall prosecute all ~~complaints~~ criminal activities under this chapter.

2 (c) A civil penalty under this section continues to accrue until the earlier of the following:

3 (1) The date the violation ceases; or

4 (2) A date specified by the department.

5 SECTION 2. The title of Chapter 19-14.3 of the General Laws entitled "Sale of Checks
6 and Electronic Money Transfers" is hereby amended to read as follows:

7 ~~CHAPTER 19-14.3~~

8 ~~Sale of Checks and Electronic Money Transfers~~

9 CHAPTER 19-14.3

10 CURRENCY TRANSMISSIONS

11 SECTION 3. Section 19-14.3-1 of the General Laws in Chapter 19-14.3 entitled "Sale of
12 Checks and Electronic Money Transfers" is hereby amended to read as follows:

13 **19-14.3-1. Exemption from licensing.**

14 No license to ~~sell checks or~~ engage in the business of currency transmission ~~electronic~~
15 ~~money transfers~~ shall be required of any:

16 (1) Regulated institution, bank, or credit union organized under the laws of the United
17 States, or subject to written notice with a designated Rhode Island agent for service of process in
18 the form prescribed by the director, or the director's designee, of any other state within the United
19 States if the laws of the other state in which such bank or credit union is organized authorizes
20 under conditions not substantially more restrictive than those imposed by the laws of this state, as
21 determined by the director, or the director's designee, a financial institution or credit union to
22 engage in the business of ~~selling checks or electronic money transfers~~ currency transmission in
23 the other state; no bank or credit union duly organized under the laws of any other state within the
24 United States may receive deposits, pay checks or lend money from any location within this state
25 unless such bank or credit union has received approval from the director, or the director's
26 designee, for the establishment of an interstate branch office pursuant to chapter 7 of title 19;

27 (2) Natural person employee who is employed by a licensee when acting on the licensee's
28 behalf; or

29 (3) Agents or authorized delegates any licensee shall designate or appoint. No ~~sale of~~
30 ~~check or electronic money transfer~~ currency transmission licensee shall be required to obtain a
31 branch office license pursuant to § 19-14-12, or shall be subject to the provisions of § 19-14-24;
32 ~~or shall be required to obtain a license pursuant to chapter 14.4 of this title for check-cashing~~
33 ~~services incidental to the sale of checks and electronic money transfers and the person charges not~~
34 ~~more than fifty cents (\$.50) per check cashed.~~ Agents or authorized delegates, in their capacity as

1 agents of the licensee, are subject to the supervision and regulation by the director
2 notwithstanding exemption from licensure.

3 (4) This chapter shall not apply to activity by:

4 (i) The United States, a state, political subdivision of a state, agency or instrumentality of
5 federal, state, or local government, or a foreign government or a subdivision, department, agency
6 or instrumentality of a foreign government;

7 (ii) A person whose participation in a payment system is limited to providing processing,
8 clearing, or performing settlement services solely for transactions between or among persons that
9 are exempt from the licensing or registration requirements of this chapter;

10 (iii) A person engaged in the business of dealing in foreign exchange to the extent the
11 person's activity meets the definition in 31 C.F.R. Section 1010.605(f)(1)(iv), as may be amended
12 from time to time;

13 (iv) A person that:

14 (A) Contributes only connectivity software or computing power to support the stability
15 and security of the underlying network;

16 (B) Provides only data storage or security services for a business engaged in virtual
17 currency business activity and does not otherwise engage in virtual currency business activity on
18 behalf of another person;

19 (C) Provides only to a person otherwise exempt from this chapter virtual currency as one
20 or more enterprise solutions used solely among each other and has no agreement or relationship
21 with a resident that is an end-user of virtual currency;

22 (v) A person using virtual currency, including creating, investing, buying or selling, or
23 obtaining virtual currency as payment for the purchase or sale of goods or services, solely:

24 (A) On its own behalf;

25 (B) For personal, family, or household purposes; or

26 (C) For academic purposes;

27 (vi) An attorney to the extent of providing escrow services to a resident;

28 (vii) A title insurance company to the extent of providing escrow services to a resident;

29 (viii) A securities intermediary, as defined in § 6A-8-102, or a commodity intermediary,
30 as defined § 6A-9-102, that:

31 (A) Does not engage in the ordinary course of business in virtual currency business
32 activity with or on behalf of a resident in addition to maintaining securities accounts or
33 commodities accounts and is regulated as a securities intermediary or commodity intermediary
34 under federal law, the law of this state other than this chapter, or the law of another state; and

- 1 (B) Affords resident protections comparable to those set forth in § 19-14.3-3.6;
2 (ix) A secured party defined in § 6A-9-102(a) or creditor with a judicial lien or lien
3 arising by operation of law on collateral that is virtual currency, if the virtual currency business
4 activity of the creditor is limited to enforcement of the security interest in compliance with
5 chapter 9 of title 6A or a lien in compliance with the law applicable to the lien;
6 (x) A virtual currency control-services vendor; or
7 (xi) A person that:
8 (A) Does not receive compensation from or on behalf of a resident or from sales of data
9 pertaining to a resident for:
10 (I) Providing virtual currency products or services; or
11 (II) Conducting virtual currency business activity; or
12 (B) Is engaged in testing products or services with the person's own funds.
13 (5) The department may determine that a person or class of persons, given facts particular
14 to the person or class, should be exempt from this chapter, whether the person or class is covered
15 by requirements imposed under federal law on a money-service business.

16 SECTION 4. Chapter 19-14.3 of the General Laws entitled "Sale of Checks and
17 Electronic Money Transfers" is hereby amended by adding thereto the following sections:

18 **19-14.3-1.1. Definitions.**

19 In addition to the definitions provided in § 19-14-1 the following definitions are
20 applicable to this chapter:

21 (1) "Control" means:

22 (i) When used in reference to a transaction or relationship involving virtual currency, the
23 power to execute unilaterally or prevent indefinitely a virtual currency transaction; and

24 (ii) When used in reference to a person, the direct or indirect power to direct the
25 management, operations, or policies of the person through legal or beneficial ownership of voting
26 power in the person or under a contract, arrangement, or understanding.

27 (2) "Department" means the department of business regulation, division of banking;

28 (3) "Exchange," used as a verb, means to assume control of virtual currency from or on
29 behalf of a resident, at least momentarily, to sell, trade, or convert:

30 (i) Virtual currency for legal tender, bank credit, or one or more forms of virtual
31 currency; or

32 (ii) Legal tender or bank credit for one or more forms of virtual currency.

33 (4) "Legal tender" means a medium of exchange or unit of value, including the coin or
34 paper money of the United States, issued by the United States or by another government.

1 (5) "Licensee" means a person licensed under this chapter.

2 (6) "Monetary value" means a medium of exchange, whether or not redeemable in
3 money.

4 (7) "Reciprocity agreement" means an arrangement between the department and the
5 appropriate licensing agency of another state which permits a licensee operating under a license
6 granted by the other state to engage in currency transmission business activity with or on behalf
7 of a resident.

8 (8) "Record" means information that is inscribed on a tangible medium or that is stored in
9 an electronic or other medium and is retrievable in perceivable form.

10 (9) "Registry" means the Nationwide Multistate Licensing System.

11 (10) "Resident":

12 (i) Means a person that:

13 (A) Is domiciled in this state;

14 (B) Is physically located in this state for more than one hundred eighty-three (183) days
15 of the previous three hundred sixty-five (365) days; or

16 (C) Has a place of business in this state; and

17 (ii) Includes a legal representative of a person that satisfies subsection (10)(i) of this
18 section.

19 (9) "Responsible individual" means an individual who has managerial authority with
20 respect to a licensee's currency transmission business activity with or on behalf of a resident.

21 (10) "Sign" means, with present intent to authenticate or adopt a record:

22 (i) To execute or adopt a tangible symbol; or

23 (ii) To attach to or logically associate with the record an electronic symbol, sound, or
24 process.

25 (11) "State" means a state of the United States, the District of Columbia, Puerto Rico, the
26 United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of
27 the United States.

28 (12) "Store," except in the phrase "store of value," means to maintain control of virtual
29 currency on behalf of a resident by a person other than the resident. "Storage" and "storing" have
30 corresponding meanings.

31 (13) "Transfer" means to assume control of virtual currency from or on behalf of a
32 resident and to:

33 (i) Credit the virtual currency to the account of another person;

34 (ii) Move the virtual currency from one account of a resident to another account of the

1 same resident; or

2 (iii) Relinquish control of virtual currency to another person.

3 (14) "U.S. Dollar equivalent of virtual currency" means the equivalent value of a
4 particular virtual currency in United States dollars shown on a virtual currency exchange based in
5 the United States for a particular date or period specified in this chapter.

6 (15) "Virtual currency business activity" means:

7 (i) Exchanging, transferring, or storing virtual currency whether directly or through an
8 agreement with a virtual currency control-services vendor;

9 (ii) Holding electronic precious metals or electronic certificates representing interests in
10 precious metals on behalf of another person or issuing shares or electronic certificates
11 representing interests in precious metals; or

12 (iii) Exchanging one or more digital representations of value used within one or more
13 online games, game platforms, or family of games for:

14 (A) Virtual currency offered by or on behalf of the same publisher from which the
15 original digital representation of value was received; or

16 (B) Legal tender or bank credit outside the online game, game platform, or family of
17 games offered by or on behalf of the same publisher from which the original digital
18 representation of value was received.

19 (16) "Virtual currency control-services vendor" means a person that has control of virtual
20 currency solely under an agreement with a person that, on behalf of another person, assumes
21 control of virtual currency.

22 **19-14.3-1.2. License by reciprocity.**

23 (a) A person licensed by another state to engage in currency transmission business
24 activity in that state may engage in currency transmission business activity with or on behalf of a
25 resident to the same extent as a licensee if:

26 (1) The department determines that the state in which the person is licensed has in force
27 laws regulating currency transmission business activity which are substantially similar to, or more
28 protective of rights of users than, this chapter and enters into a reciprocity agreement with the
29 other state that the state will allow reciprocal licensing of persons licensed under this chapter.

30 (2) An application under this section is filed with the registry and the applicant shall
31 notify the department in a record that the applicant has submitted the application to the registry
32 and shall submit to the department:

33 (i) A certification of license history from the agency responsible for issuing a license in
34 each state in which the applicant has been licensed to conduct currency transmission business

1 activity:

2 (ii) A nonrefundable reciprocal licensing application fee in the amount required by § 19-
3 14-6;

4 (iii) All other information requested by the department in the application for licensure on
5 the registry.

6 **19-14.3-1.3. Cooperation and data-sharing authority.**

7 (a) The department may cooperate, coordinate, jointly examine, consult, and share
8 records and other information with the appropriate regulatory agency of another state, a self-
9 regulatory organization, federal or state regulator of banking or non-depository providers, or a
10 regulator of a jurisdiction outside the United States, concerning the affairs and conduct of a
11 licensee in this state.

12 (b) The department shall:

13 (1) Establish or participate in, with another state that enacts a law substantially similar to
14 this chapter, a central depository for filings required by law of this state other than this chapter;

15 (2) Cooperate in developing and implementing uniform forms for applications and
16 renewal reports and the conduct of joint administrative proceedings and civil actions;

17 (3) Formulate joint rules, forms, statements of policy, and guidance and interpretative
18 opinions and releases; and

19 (4) Develop common systems and procedures.

20 (c) In deciding whether and how to cooperate, coordinate, jointly examine, consult, or
21 share records and other information under subsection (a) of this section, the department shall
22 consider:

23 (1) Maximizing effectiveness and uniformity of regulation, examination, implementation,
24 and enforcement for the benefit of residents and licensees and registrants; and

25 (2) Minimizing burdens on licensees and registrants without adversely affecting
26 protection for residents.

27 **19-14.3-3.5. Required disclosures for virtual currency.**

28 (a) A licensee engaging in virtual currency business activities shall provide to a resident
29 who uses the licensee's virtual currency products or service the disclosures required by subsection
30 (b) of this section and any additional disclosure the department by rule determines reasonably
31 necessary for the protection of residents. The department may determine by rule any additional
32 disclosures and/or the time and form required for disclosure. A disclosure required by this section
33 must be made separately from any other information provided by the licensee and in a clear and
34 conspicuous manner in a record the resident may keep. A licensee may propose for the

1 department's approval alternate disclosures as more appropriate for its virtual currency business
2 activity with or on behalf of residents.

3 (b) Before establishing a relationship with a resident, a licensee shall disclose, to the
4 extent applicable to the virtual currency business activity the licensee will undertake with the
5 resident:

6 (1) A schedule of fees and charges the licensee may assess, the manner by which fees and
7 charges will be calculated if they are not set in advance and disclosed, and the timing of the fees
8 and charges;

9 (2) Whether the product or service provided by the licensee is covered by:

10 (i) A form of insurance or is otherwise guaranteed against loss by an agency of the United
11 States:

12 (A) Up to the full U.S. Dollar equivalent of virtual currency placed under the control of
13 or purchased from the licensee as of the date of the placement or purchase, including the
14 maximum amount provided by insurance under the Federal Deposit Insurance Corporation or
15 otherwise available from the Securities Investor Protection Corporation; or

16 (B) If not provided at the full U.S. Dollar equivalent of virtual currency placed under the
17 control of or purchased from the licensee, the maximum amount of coverage for each resident
18 expressed in the U.S. Dollar equivalent of the virtual currency; or

19 (ii) Private insurance against theft or loss, including cyber theft or theft by other means;

20 (3) The irrevocability of a transfer or exchange and any exception to irrevocability;

21 (4) A description of:

22 (i) Liability for an unauthorized, mistaken, or accidental transfer or exchange;

23 (ii) The resident's responsibility to provide notice to the licensee of the transfer or
24 exchange;

25 (iii) The basis for any recovery by the resident from the licensee;

26 (iv) General error-resolution rights applicable to the transfer or exchange; and

27 (v) The method for the resident to update the resident's contact information with the
28 licensee;

29 (5) That the date or time when the transfer or exchange is made and the resident's account
30 is debited may differ from the date or time when the resident initiates the instruction to make the
31 transfer or exchange;

32 (6) Whether the resident has a right to stop a pre-authorized payment or revoke
33 authorization for a transfer and the procedure to initiate a stop-payment order or revoke
34 authorization for a subsequent transfer;

1 (7) The resident's right to receive a receipt, trade ticket, or other evidence of the transfer
2 or exchange;

3 (8) The resident's right to at least thirty (30) days' prior notice of a change in the
4 licensee's fee schedule, other terms and conditions of operating its virtual currency business
5 activity with the resident and the policies applicable to the resident's account; and

6 (9) That virtual currency is not legal tender.

7 (c) Except as otherwise provided in subsection (d) of this section, at the conclusion of a
8 virtual currency transaction with or on behalf of a resident, a licensee shall provide the resident a
9 confirmation in a record which contains:

10 (1) The name and contact information of the licensee, including information the resident
11 may need to ask a question or file a complaint;

12 (2) The type, value, date, precise time, and amount of the transaction; and

13 (3) The fee charged for the transaction, including any charge for conversion of virtual
14 currency to legal tender, bank credit, or other virtual currency.

15 (d) If a licensee discloses that it will provide a daily confirmation in the initial disclosure
16 under subsection (c) of this section, the licensee may elect to provide a single, daily confirmation
17 for all transactions with or on behalf of a resident on that day instead of a per-transaction
18 confirmation.

19 **19-14.3-3.6. Property interests and entitlements to virtual currency.**

20 (a) A licensee that has control of virtual currency for one or more persons shall maintain
21 in its control an amount of each type of virtual currency sufficient to satisfy the aggregate
22 entitlements of the persons to the type of virtual currency.

23 (b) If a licensee violates subsection (a) of this section, the property interests of the
24 persons in the virtual currency are pro rata property interests in the type of virtual currency to
25 which the persons are entitled, without regard to the time the persons became entitled to the
26 virtual currency or the licensee obtained control of the virtual currency.

27 (c) The virtual currency referred to in this section is:

28 (1) Held for the persons entitled to the virtual currency;

29 (2) Not property of the licensee; and

30 (3) Not subject to the claims of creditors of the licensee.

31 **19-14.3-3.7. Mandated compliance programs and monitoring.**

32 (a) An applicant, before submitting an application, shall create and, during licensure,
33 maintain in a record, policies and procedures for:

34 (1) An information-security and operational-security program;

- 1 (2) A business-continuity program;
- 2 (3) A disaster-recovery program;
- 3 (4) An anti-fraud program;
- 4 (5) An anti-money-laundering program;
- 5 (6) A program to prevent funding of terrorist activity; and
- 6 (7) A program designed to:
- 7 (i) Ensure compliance with this chapter, and the laws of this state, and federal law, which
8 are relevant to the currency transmission business activity contemplated by the licensee with or
9 on behalf of residents; and
- 10 (ii) Assist the licensee in achieving the purposes of any law of this state other than this
11 chapter and federal law if a violation of that law has a remedy under this chapter.
- 12 (b) Each policy required by subsection (a) of this section must be in a record and
13 designed to be adequate for a licensee's contemplated currency transmission business activity
14 with or on behalf of residents, considering the circumstances of all participants and the safe
15 operation of the activity. Each policy and implementing procedure must be compatible with other
16 policies and the procedures implementing them and not conflict with policies or procedures
17 applicable to the licensee under the laws of this state other than this title. A policy and
18 implementing procedure may be one in existence in the licensee's virtual currency business
19 activity with or on behalf of residents.
- 20 (c) A licensee's policy for detecting fraud must include:
- 21 (1) Identification and assessment of the material risks of its currency transmission
22 business activity related to fraud;
- 23 (2) Protection against any material risk related to fraud identified by the department or
24 the licensee; and
- 25 (3) Periodic evaluation and revision of the anti-fraud procedure.
- 26 (d) A licensee's policy for preventing money laundering and financing of terrorist activity
27 must include:
- 28 (1) Identification and assessment of the material risks of its currency transmission
29 business activity related to money laundering and financing of terrorist activity;
- 30 (2) Procedures, in accordance with federal law or guidance published by federal agencies
31 responsible for enforcing federal law, pertaining to money laundering and financing of terrorist
32 activity; and
- 33 (3) Filing reports under the Bank Secrecy Act, 31 U.S.C. Section 5311 et seq., as
34 amended, or 31 C.F.R. Chapter X, as amended, and other federal or state laws pertaining to the

1 prevention or detection of money laundering or financing of terrorist activity.

2 (e) A licensee's information-security and operational-security policy must include
3 reasonable and appropriate administrative, physical, and technical safeguards to protect the
4 confidentiality, integrity, and availability of any non-public personal information or currency
5 transmission it receives, maintains, or transmits.

6 (f) A licensee is not required to file with the department a copy of a report it makes to a
7 federal authority unless the department specifically requires filing.

8 (g) A licensee's protection policy under subsection (e) of this section for residents must
9 include:

10 (1) Any action or system of records required to comply with this title and the laws of this
11 state other than this title applicable to the licensee with respect to currency transmission business
12 activity with or on behalf of a resident;

13 (2) A procedure for resolving disputes between the licensee and a resident;

14 (3) A procedure for a resident to report an unauthorized, mistaken, or accidental currency
15 transmission business activity transaction; and

16 (4) A procedure for a resident to file a complaint with the licensee and for the resolution
17 of the complaint in a fair and timely manner with notice to the resident as soon as reasonably
18 practical of the resolution and the reasons for the resolution.

19 (h) After the policies and procedures required under this section are created and approved
20 by the department and the licensee, the licensee shall engage a responsible individual with
21 adequate authority and experience to monitor each policy and procedure, publicize it as
22 appropriate, recommend changes as desirable, and enforce it.

23 (i) A licensee may:

24 (1) Request advice from the department as to compliance with this section; and

25 (2) With the department's approval, outsource functions, other than compliance, required
26 under this section.

27 (j) Failure of a particular policy or procedure adopted under this section to meet its goals
28 in a particular instance is not a ground for liability of the licensee if the policy or procedure was
29 created, implemented, and monitored properly. Repeated failures of a policy or procedure are
30 evidence that the policy or procedure was not created or implemented properly.

31 (k) Policies and procedures adopted under this section must be disclosed separately from
32 other disclosures made available to a resident, in a clear and conspicuous manner and in the
33 medium through which the resident contacted the licensee.

34 **19-14.3-3.8. Mandated compliance policy or procedure.**

1 (a) An applicant, before submitting its application shall establish and maintain in a record
2 a policy or procedure designed to ensure compliance with:

3 (1) This title; and

4 (2) The laws of this state other than this title if:

5 (i) The other law is relevant to the currency transmission business activity contemplated
6 by the licensee or the scope of this title, or

7 (ii) This title could assist in the purpose of the other law because the violation of the other
8 law has a remedy under this title.

9 (b) A policy or procedure under subsection (a) of this section:

10 (1) Must be compatible, and not conflict, with requirements applicable to a licensee under
11 the laws of this state other than this title and under federal law; and

12 (2) May be a policy or procedure in existence for the licensee's virtual currency business
13 activity with or on behalf of a resident.

14 (c) After the policies and procedures required under this section are created by the
15 licensee and approved by the department, the licensee shall engage a responsible individual with
16 adequate authority and experience to monitor each policy or procedure, publicize it as
17 appropriate, recommend changes as desirable, and enforce it.

18 (d) A licensee may:

19 (1) Request advice from the department as to compliance with this section; and

20 (2) With the department's approval, outsource functions, other than compliance, required
21 under this section.

22 (e) Failure of a particular policy or procedure adopted under this section to meet its goals
23 in a particular instance is not a ground for liability of the licensee if the policy or procedure was
24 created, implemented, and monitored properly. Repeated failures of a policy or procedure are
25 evidence that the policy or procedure was not created or implemented properly.

26 **19-14.3-3.9. Prohibited acts and practices.**

27 (a) No person required to be licensed under this chapter shall:

28 (1) Fail to remit all money or monetary value received for transmission pursuant to this
29 chapter, or give instructions committing equivalent money or monetary value to the person
30 designated by the sender within ten (10) days after receipt by the licensee unless otherwise
31 directed by the sender;

32 (2) Fail to immediately notify the director in writing if the licensee dishonors or fails to
33 satisfy any currency transmission transaction within the ten (10) days following receipt for any
34 reason other than direction by the sender;

1 (3) Engage in the business of currency transmission in the state under any name other
2 than that which it is organized or otherwise authorized to do business in the state;

3 (4) Fail to comply with the Federal Bank Secrecy Act, 31 U.S.C. 5311 et seq., and 31
4 C.F.R. Part 1022, including maintenance of an active registration with the United States
5 Department of Treasury Financial Crimes Enforcement Network;

6 (5) Fail to comply with the Federal Electronic Funds Transfer Act, 15 U.S.C. 1693 et
7 seq., and Regulation E, 12 C.F.R. 1005 et seq.;

8 (6) Fail to safeguard identifying information obtained in the course of currency
9 transmission and otherwise comply with the requirements set forth in chapter 52 of title 6;

10 (7) Fail to comply with applicable state and federal laws and regulations related to the
11 business of currency transmission;

12 (8) Use or cause to be published or disseminated any advertising communication which
13 contains any false, misleading, or deceptive statement or representation; or

14 (9) Engage in unfair, deceptive, or fraudulent practices.

15 SECTION 5. This act shall take effect on January 1, 2020.

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LC002131
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO FINANCIAL INSTITUTIONS -- LICENSED ACTIVITIES--CURRENCY
TRANSMISSIONS

1 This act would add virtual currency to the existing electronic money transmission and
2 sale of check licenses and would add additional regulatory provisions to simplify and clarify
3 licensing related thereto.

4 This act would take effect on January 1, 2020.

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LC002131
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