

§ 53-208.44. Exemptions.

(a) This Article shall not apply to any of the following:

- (1) The United States or any department, agency, or instrumentality or by a contractor thereof.
- (2) The United States Postal Service.
- (3) The State or any political subdivisions or by a contractor thereof.
- (4) Banks, credit unions, savings and loan associations, savings banks, or mutual banks organized under the laws of any state or the United States.
- (5) A person registered as a securities broker-dealer under federal or state securities laws to the extent of its operation as a broker-dealer.
- (6) The provision of electronic transfer of government benefits for any federal, state, or county governmental agency as defined in Regulation E, 12 C.F.R. § 1005 et seq., by a contractor for and on behalf of the United States or any department, agency, or instrumentality thereof, or any state or any political subdivisions thereof.
- (7) A person that is engaged exclusively in any of the following:
 - a. Delivering wages or salaries on behalf of employers to employees.
 - b. Facilitating the payment of payroll taxes to State and federal agencies.
 - c. Making payments relating to employee benefit plans.
 - d. Making distribution of other authorized deductions from employees' wages or salaries.
 - e. Transmitting other funds on behalf of an employer in connection with transactions related to employees.
- (8) A person appointed by a payee to collect and process payments as the bona fide agent of the payee, provided the person can demonstrate to the Commissioner all of the following:
 - a. There exists a written agreement between the payee and agent directing the agent to collect and process payments on the payee's behalf.
 - b. The payee holds the agent out to the public as accepting payments on the payee's behalf.
 - c. Payment is treated as received by the payee upon receipt by the agent.

This exemption extends to those otherwise engaged in money transmission as set forth in G.S. 53-208.42(13)b., including those transactions conducted in whole or in part in virtual currency.

(b) Any person who seeks to engage in the business of money transmission in this State subject to exemption under (a)(7) or (a)(8) of this section shall submit a written request for verification of exemption to the Commissioner. Such request shall be in a form acceptable to the Commissioner and shall include a copy of any written agreement and related documentation that is the basis for the specified exemption.

(c) Licensees may authorize delegates to engage in money transmission on their behalf subject to this Article subject to an express written agreement, which shall provide the following:

- (1) The licensee appoints the person as its delegate with authority to engage in money transmission on behalf of the licensee in this State.
- (2) Neither a licensee nor an authorized delegate may authorize sub-delegates without the written consent of the Commissioner.

- (3) Authorized delegates, in their capacity as agents of the licensee, are subject to the supervision and regulation by the Commissioner notwithstanding exemption from licensure.
- (4) The licensee shall issue a certificate of authority for each branch office at which it conducts licensed activities in this State through an authorized delegate, which shall be posted in public view and read as follows: "Money transmission on behalf of (licensee) is conducted at this location pursuant to the North Carolina Money Transmitters Act, N.C.G.S. § 53-208.41 et seq."

Licensees conducting money transmission subject to this Article are required to maintain full charge, control, and supervision of any authorized delegate and are responsible for ensuring any activity undertaken by an authorized delegate on behalf of the licensee is in compliance with this Article.

(d) The Commissioner may, by rule or by order, exempt from all or part of this Article any person, transaction, or class of persons or transactions if the Commissioner finds such action to be in the public interest and that the regulation of such persons or transactions is not necessary for the purposes of this Article. (2016-81, s. 1; 2017-102, ss. 14.1(b), 46.)