Does Your Web Service Reach North Carolina?

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Numerous states are revising their money transmitter legislation, and North Carolina is no exception. On June 30, North Carolina's governor signed into law the North Carolina Money Transmitter Act (the "Act"), which brought current a law dating to 2001 and changed certain other provisions. While numerous changes took place, the Act's most salient changes are to:

- Define "virtual currency" and clarify that virtual currency transmitters are covered by the statute.
- Require licensure under the Act for anyone who solicits or advertises money transmission services from a website accessible by North Carolina citizens.
- Add exemptions from licensure, including those acting as agent of other payees provided a written agreement exists and those facilitating employee benefit and wage payments. However, those claiming exemption under these two sections must submit a written request to North Carolina's Commissioner of Banks (the "Commissioner") requesting verification of exemption.
- Change the annual assessment fee from $1,000 per year plus $10.00 per location to a base amount of $5,000 for transmission dollar volume of up to $1,000,000 plus an additional sum (ranging from $0.0000006 to $0.0008 per dollar) depending on volume.
- Require notification of a change or acquisition of control of a license within 15 days.
- Change the licenses from annual to perpetual, with one key caveat added: control of a licensee may not be acquired through a stock purchase, merger, or other device without the Commissioner's prior written consent.
- Require that each licensee maintain books and records as required by the Commissioner for no less than three years.

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For any one presently holding a money transmitter licensed issued on or after November 1, 2014, the Act specifically provides that such parties may continue to engage in business subject to the new requirements.

The Act is an excellent example of how various states are focusing on money transmitter legislation and enacting new laws with both a wide reach and state-specific nuances. Mary Bennett, a network expert with BlackLine Payments Advisors LLC and a payments public policy consultant at Red Ridge Consulting, says the North Carolina law "could be a precursor to what other states may decide to do," and cautions that payments processors should be aware of how state legislation and regulations may impact their business.

For further inquiry on this topic or legal assistance in electronic payments, please contact Howard Herndon or Josh Rosenblatt . View the full history of the North Carolina Money Transmitter Act.

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