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# Payroll Processors Propose Exemption From Illinois Money Transmission Act

**Trade organisations have proposed a new law in Illinois to remove payroll processing from the definition of money transmission and recognise it as a separately licensed business activity.**

The proposal for the Illinois Payroll Processors Act was submitted to the state's Congress by The Payroll Group (IPG) and the Independent Payroll Processors Association (IPPA) during a committee hearing to pass the Uniform Money Transmitter Modernization Act (SB 3412).

SB 3412 is based on a model law that has been negotiated between state regulators and the payments industry under the leadership of the Conference of State Bank Supervisors (CSBS). The bill updates and replaces the Transmitters of Money Act (TOMA), requiring money transmitters to be licensed as such by the state.

The bill sets out provisions concerning money transmission licences, licence applications and renewal, acquisition of control and change of key individuals, reporting and records, authorised delegates of a licensee, timely transmission, refunds and disclosures.

It also contains provisions on the confidentiality of records, required reporting, prudential standards and enforcement.

The act makes changes to the Freedom of Information Act and the State Finance Act effective immediately and repeals the Transmitters of Money Act from January 1, 2026.

“This bill will update current Illinois money transmission law and support Illinois businesses and consumers and will bring Illinois in harmony with other states that have already adopted this model law,” chief sponsor Senator Laura Ellman said during the hearing.

“This bill is a harmonisation law. It’s good for Illinois businesses and consumers and good for interstate commerce.”

Seventeen states have already adopted their own version of the model law and 12 including Illinois are in the process of passing legislation.

However, SB 3412 as written includes payroll processors within the definition of money transmission. The TPG and IPPA during discussions have requested an exemption.

**Payroll processors request separate definition**

“Many of these states that adopted the model act did not include payroll processors within the definition of money transmitters. Other states that have not included the definition have expressly stated that payroll processors are not money transmitters and have exempted payroll processors in their adoption of the model act,” Keith Bennett, outside counsel for TPG and IPPA, stated during the hearing.

“Payroll processors do not engage in the business of receiving money for transmission or transmitting money, rather they are engaged in the business of providing back office administrative support for employers, as agents of the employers in calculating withholdings, garnishments and things of that nature,” Bennett stated.

There are checks and balances in place for payroll processors that are not in place for money transmitters, Bennett noted.

A payroll processor has a contract with an employer and is required to register with the Internal Revenue Service (IRS) to handle employee funds or funds intended for tax authorities. There are also compliance audits required by banking providers and state law in Illinois requiring employees to be paid in full and in a timely manner, which also applies.

Bennett presented two options on behalf of the trade organisations — one to regulate consumer-facing payroll processors only as they contract directly with consumers and the second to adopt a licensing structure similar to the state of Maine.

Like other states, Maine recognises that payroll processors are not money transmitters but requires all payroll processors to be licensed.

“While this is not our overall preference, this option is acceptable because Maine does not lump payroll processors and money transmitters together,” Bennett said.

“Under Maine law, payroll processors are subject to audit and bonding requirements by the state, but these requirements are more tailored to what they do in a manner that is commensurate with the business activities involved. With respect to payroll processors just like Maine we ask for Illinois to remove payroll processing from the definition of money transmission and properly recognise payroll processing as a separately licensed business activity.”

The current money transmitter law in Illinois, TOMA, has been interpreted by the Illinois Department of Financial and Professional Regulation (IDFPR) to include payroll processors since 1995, but Bennett noted that payroll processors are not mentioned in the statute.

“The department did not start interpreting TOMA to include payroll processors until after CSPS drafted its model law in late 2020 and introduced it in 2021. This late interpretation of the statute represents or presents significant due process issues and underscores the need for a safe harbour for payroll processors,” Bennett said.

Large payroll processors that have been involved in national discussions about the model law have effectively squeezed out smaller processors from the negotiations, Bennett stated. “We want to continue our discussions with the department and press for a separate licensing regime for payroll processors.”

Carl Gutierrez, legislative liaison for the IDFPR, indicated that the department is prepared to work with the trade organisations on a compromise.

“We are ready, willing, and able to make an accommodation so long as it maintains regulatory oversight of this industry. We have to review the proposals but up until now any proposal we’ve received from them has been a form of exemption, which is tantamount to deregulation,” Gutierrez said. “We will review what they’ve just raised in this committee and proceed accordingly.”

Senators John Curran and Napoleon Harris raised concerns in the hearing about an increase in the bond that firms licensed as money transmitters will need to put up under the Uniform Money Transmitter Modernization Act.

“I generally support the bill … but the increase in the surety bond is significant in the legislative proposal,” Curran said. “My concern would be that given the scale of the businesses we're talking about, we’re going to be knocking competitors out of the marketplace. These businesses service small business — provide that backroom support — if we knock them out of the marketplace it’s just going to push everyone to the bigger players in the industry and that is going to have an effect on prices and ultimately a detrimental effect on small business.”

Harris questioned whether as most small businesses do not process their own payroll, this could increase their costs.

“The bonding requirements would have the effect of significantly crippling the smaller payroll processors and those are the ones who are servicing the small businesses,” Bennett responded.

**Payments industry group voices support**

The Electronic Transactions Association (ETA), an industry trade association representing payments firms, supports SB 3412.

“This act will help prevent fraud and illicit activities so that consumers are safeguarded. Currently, each state has its own rules to license and regulate money transmitters and this variation among states leads to inconsistent standards and creates a bunch of fees when transmitting money nationally that may deter economic growth,” Brian Yates, senior director of state government affairs at the ETA, said during the hearing.

“The model law will help enable an integrated system of regulation, supervision and licencing, resulting in clear and consistent standards,” Yates added. “More uniform standards between Illinois and other states make it easier for businesses to choose to be licenced in Illinois, bringing new and innovative financial products and services to the state. This law has support from industry regulators and consumer rights organisations.”

The bill passed out of the committee hearing with 12 affirmative votes, one present and no opposing votes.

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