

**HOUSE . . . . . No. 00293**

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The Commonwealth of Massachusetts

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PRESENTED BY:

*Peter J. Koutoujian*

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*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to the regulation of the business of domestic and foreign money transmission by the Division of Banks.

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PETITION OF:

NAME:

*Peter J. Koutoujian*

DISTRICT/ADDRESS:

*10th Middlesex*

# HOUSE . . . . . No. 00293

By Mr. Peter J. Koutoujian of Waltham, petition (accompanied by bill, House, No. 00293) of Peter J. Koutoujian relative to the regulation of the business of domestic and foreign money transmission by the Division of Banks. Joint Committee on Financial Services.

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE  
□ HOUSE  
□ , NO. 4760 OF 2009-2010.]

## The Commonwealth of Massachusetts

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**In the Year Two Thousand Eleven**  
\_\_\_\_\_

An Act relative to the regulation of the business of domestic and foreign money transmission by the Division of Banks.

□.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section 4 of chapter 167F of the General Laws, as appearing in the 2006 Official  
2 Edition, is hereby amended by striking out section 4, and inserting in place thereof the following  
3 section:--

4 Section 4. Any bank, or state-chartered credit union or any federally-chartered bank may  
5 engage directly in the business of selling, issuing or registering checks or money orders, except  
6 that any bank, state-chartered credit union or any federally-chartered bank may engage in such

7 business through agents who shall not be deemed to be branches of such banks, state-chartered  
8 credit unions or federally-chartered banks.

9

10 SECTION 2. The General Laws are hereby amended by striking out chapter 169, as appearing in  
11 the 2006 Official Edition, and inserting in place thereof the following chapter:--

12 Chapter 169

13 Licensing and Supervision of Money Transmitters

14 Section 1: Definitions

15 “Authorized agent,” a person designated by a licensee under the provisions of this chapter to sell  
16 or issue payment instruments or engage in the business of transmitting money on behalf of a  
17 licensee at a location in the Commonwealth.

18 “Commissioner,” the commissioner of banks.

19 “Control,” ownership of, or the power to vote, ten percent or more of the outstanding voting  
20 securities of a licensee or controlling person. For the purposes of determining the percentage of  
21 a licensee controlled by any person, there shall be aggregated with the person’s interest the  
22 interest of any other person controlled by such person or by any spouse, parent, or child of such  
23 person.

24 “Controlling person,” any person in control of a licensee.

25 “Electronic Instrument,” a card or other tangible object for the transmission or payment of  
26 money which contains a microprocessor chip, magnetic stripe, or other means for the storage of

27 information, that is prefunded and for which the value is decremented upon each use, but does  
28 not include a card or other tangible object that is redeemable by the issuer in the issuer's goods  
29 or services.

30 "Licensee," a person licensed under this Chapter to engage in the business of money  
31 transmission.

32 "Material litigation," any litigation that, according to generally accepted accounting principles, is  
33 deemed significant to an applicant's or licensee's financial health and would be required to be  
34 referenced in that entity's annual audited financial statements, report to shareholders or similar  
35 documents.

36 "Money transmission," the sale or issuance of payment instruments or stored value or engaging  
37 in the business of receiving money for transmission or transmitting money within the United  
38 States or to countries other than the United States by any and all means, including but not limited  
39 to payment instrument, wire, facsimile or electronic transfer.

40 "Multi-state licensing system", a system involving 1 or more states, the District of Columbia, or  
41 the Commonwealth of Puerto Rico for the sharing of regulatory information and the licensing  
42 and application processes, by electronic or other means, for the business of money transmission.

43 "Outstanding payment instrument," any payment instrument issued by the licensee which has  
44 been sold in the United States directly by the licensee or any payment instrument issued by the  
45 licensee which has been sold by an authorized agent of the licensee in the United States, which  
46 has been reported to the licensee as having been sold and which has not yet been paid by or for  
47 the licensee.

48 “Payment instrument,” any electronic or written check, draft, money order, travelers check or  
49 other electronic or written instrument or order for the transmission or payment of money, sold or  
50 issued to one or more persons, whether or not such instrument is negotiable. The term “payment  
51 instrument” does not include any credit card voucher, any letter of credit or any instrument  
52 which is redeemable by the issuer in goods or services.

53 “Permissible Investments”

54 (a) Except to the extent otherwise limited by the commissioner pursuant to section 17, the  
55 following are permissible investments:

56 cash, a certificate of deposit, or senior debt obligation of an insured depository institution, as  
57 defined in Section 3 of the Federal Deposit Insurance Act [12 U.S.C. Section 1813 (1994 &  
58 Supp. V. 1999)];

59 banker's acceptance or bill of exchange that is eligible for purchase upon endorsement by a  
60 member bank of the Federal Reserve System and is eligible for purchase by a Federal Reserve  
61 Bank;

62 an investment bearing a rating of one of the three highest grades as defined by a nationally  
63 recognized organization that rates securities;

64 an investment security that is an obligation of the United States or a department, agency, or  
65 instrumentality thereof; an investment in an obligation that is guaranteed fully as to principal and  
66 interest by the United States; or an investment in an obligation of a State or a governmental  
67 subdivision, agency, or instrumentality thereof;

68 receivables that are payable to a licensee from its authorized agents, in the ordinary course of  
69 business, pursuant to contracts which are not past due or doubtful of collection if the aggregate  
70 amount of receivables under this paragraph does not exceed 20 percent of the total permissible  
71 investments of a licensee and the licensee does not hold at one time receivables under this  
72 paragraph in any one person aggregating more than 10 percent of the licensee's total permissible  
73 investments; and;

74 a share or a certificate issued by an open-end management investment company that is registered  
75 with the United States Securities and Exchange Commission under the Investment Companies  
76 Act of 1940 [15 U.S.C. Section 80a-1-64 (1994 & Supp. V 1999)], and whose portfolio is  
77 restricted by the management company's investment policy to investments specified in  
78 paragraphs (1) through (4).

79 (b) The following investments are permissible, but only to the extent specified:

80 an interest-bearing bill, note, bond, or debenture of a person whose equity shares are traded on a  
81 national securities exchange or on a national over-the-counter market, if the aggregate of  
82 investments under this paragraph does not exceed 20 percent of the total permissible investments  
83 of a licensee and the licensee does not at one time hold investments under this paragraph in any  
84 one person aggregating more than 10 percent of the licensee's total permissible investments;

85 a share of a person traded on a national securities exchange or a national over-the-counter market  
86 or a share or a certificate issued by an open-end management investment company that is  
87 registered with the United States Securities and Exchange Commission under the Investment  
88 Companies Act of 1940 [15 U.S.C. Section 80a-1-64 (1994 & Supp. V 1999)], and whose  
89 portfolio is restricted by the management company's investment policy to shares of a person

90 traded on a national securities exchange or a national over-the-counter market, if the aggregate of  
91 investments under this paragraph does not exceed 20 percent of the total permissible investments  
92 of a licensee and the licensee does not at one time hold investments in any one person  
93 aggregating more than 10 percent of the licensee's total permissible investments;

94 a demand-borrowing agreement made to a corporation or a subsidiary of a corporation whose  
95 securities are traded on a national securities exchange if the aggregate of the amount of principal  
96 and interest outstanding under demand-borrowing agreements under this paragraph does not  
97 exceed 20 percent of the total permissible investments of a licensee and the licensee does not at  
98 one time hold principal and interest outstanding under demand-borrowing agreements under this  
99 paragraph with any one person aggregating more than 10 percent of the licensee's total

100 permissible investments; and

101 any other investment the commissioner designates, to the extent specified by the commissioner.

102 (c) The aggregate of investments under subsection (b) may not exceed 50 percent of the total  
103 permissible investments of a licensee calculated in accordance with section 17.

104 "Person," any individual, partnership, association, joint-stock association, trust, limited liability  
105 company, limited liability partnership or corporation.

106 "Primary business," the principal business of the licensee as determined by the commissioner,  
107 exclusive of any business conducted as an agent of the state lottery commission.

108 "Principal shareholder," any person or group of persons acting in concert who is the owner of ten  
109 percent or more of any voting class of an applicant's stock.

110 “Remit,” either to make direct payment of money to a licensee or its representatives authorized  
111 to receive the money, or to deposit money in a bank, credit union or savings and loan association  
112 or other similar financial institution in an account specified by the licensee.

113 “Stored value,” monetary value that is evidenced by an electronic record.

114 Section 2. No person or entity shall engage in the business of money transmission without first  
115 obtaining a license from the commissioner pursuant to this chapter. If a licensee intends to carry  
116 on a business at more than one location, including through an authorized agent, such licensee  
117 shall procure a license for each location where such business shall be conducted.

118 Section 3. Nothing in this chapter shall be construed to apply to:

119 the United States or a department, agency, or instrumentality thereof;

120 money transmission by the United States Postal Service or by a contractor on behalf of the  
121 United States Postal Service;

122 a State or a governmental subdivision, agency, or instrumentality thereof;

123 a bank, as defined in section one of chapter one hundred and sixty-seven, a federally-chartered  
124 bank as defined in section one of chapter 167F, a bank holding company, an office of an  
125 international banking corporation, a branch of a foreign bank, a corporation organized pursuant  
126 to the Bank Services Act, or a corporation organized under the Edge Act under the laws of a  
127 State or the United States if the person does not issue, sell, or provide payment instruments or  
128 stored value through an authorized agent that is not such a person;



129 electronic funds transfer of governmental benefits for a federal, state, or governmental agency by  
130 a contractor on behalf of the United States or a department, agency, or instrumentality thereof, or  
131 a State or governmental subdivision, agency, or instrumentality thereof;

132 a board of trade designated as a contract market under the Commodity Exchange Act or a person  
133 that, in the ordinary course of business, provides clearance and settlement services for a board of  
134 trade to the extent of its operation as or for such a board of trade;

135 a registered futures commission merchant under the federal commodities laws to the extent of its  
136 operation as such a merchant;

137 a person that provides clearance or settlement services pursuant to a registration as a clearing  
138 agency or an exemption from such registration granted under the federal securities laws to the  
139 extent of its operation as such a provider;

140 an operator of a payment system to the extent that it provides processing, clearing, or settlement  
141 services, between or among persons excluded by this section, in connection with wire transfers,  
142 credit card transactions, debit card transactions, stored-value transactions, automated clearing  
143 house transfers, or similar funds transfers; or

144 a person registered as a securities broker-dealer under federal or state securities laws to the  
145 extent of its operation as such a broker-dealer.

146 Section 4. The commissioner may adopt, amend, or repeal rules and regulations, which may  
147 include an adequate capitalization requirement for entities engaged in the business of money  
148 transmission to aid in the administration and enforcement of this chapter.

149 Section 5. The application for a license shall be in a form prescribed by the commissioner and  
150 shall contain the name and address or addresses where the business of the applicant is located  
151 and if the applicant is a partnership, association, corporation, or other form of business  
152 organization, the names and addresses of each member, director, principal officer thereof, and  
153 any individual acting as a manager of an office location. Such application shall also include a  
154 description of the activities of the applicant, in such detail and for such periods as the  
155 commissioner may require, as well as such further information as the commissioner may  
156 require. The commissioner may require a background investigation of each applicant for a  
157 license to engage in the business of money transmission by means of fingerprint checks by the  
158 criminal history systems board pursuant to section 172 of chapter 6, and the Federal Bureau of  
159 Investigation for state and national criminal history record checks. If the applicant is a  
160 partnership, association, corporation or other form of business organization, the commissioner  
161 may require such background investigation by means of fingerprint checks on each member,  
162 director, principal officer of such applicant, and any individual acting as a manager of an office  
163 location. Receipt of criminal history record information by a private entity shall be  
164 prohibited. Each application for a license shall be accompanied by an investigation  
165 fee. Investigation and license fees shall be determined annually by the commissioner of  
166 administration under section 3B of chapter 7. If a licensee intends to carry on a business at more  
167 than one location, including authorized agents, such licensee shall procure a license for each  
168 location where such business shall be conducted.

169 Upon the filing of an application for a license, if the commissioner finds that the financial  
170 responsibility, character, reputation, integrity and general fitness of the applicant, and of the  
171 partners or members thereof if the applicant is a partnership or association, and of the officers,

172 directors and principal employees if the applicant is a corporation, are such as to warrant belief  
173 that the business will be operated honestly, fairly, soundly and efficiently in the public interest  
174 consistent with the purposes of this chapter, he shall thereupon issue the applicant a license to  
175 engage in the business of money transmission. If the commissioner shall not so find or, (a) the  
176 applicant made a false statement of a material fact in the application for a license; (b) an officer,  
177 director or member of the applicant business, including a proposed authorized agent, has, within  
178 ten years prior to the filing of the application, been (i) convicted of or pleaded nolo contendere to  
179 a felony, or (ii) committed an act involving fraud or deceit, which act is substantially related to  
180 the qualifications, functions or duties of a person engaged in the business of money transmission;  
181 (c) the applicant violated any of the provisions of this chapter or regulations promulgated  
182 hereunder, any similar regulatory scheme of another jurisdiction, or any other law applicable to  
183 the conduct of the business sought to be licensed; (d) a licensee or authorized agent of a licensee  
184 located at the address at which the applicant intends to operate his business has had any license  
185 issued by the commissioner suspended or revoked within six months of the date of the new  
186 application; he shall not issue a license and he shall notify the applicant of the denial. Within  
187 twenty days thereafter, he shall enter upon his records a written decision and findings containing  
188 the reasons supporting the denial and shall forthwith give written notice thereof by registered  
189 mail to the applicant. Within thirty days after the date of such notice, the applicant may appeal  
190 from such denial to the superior court for Suffolk county, sitting in equity. The court shall hear  
191 all pertinent evidence and determine the facts and upon the facts as so determined, review said  
192 denial and, as justice and equity may require, affirm the same or order the commissioner to issue  
193 such license.

194 The commissioner may participate in a multi-state licensing system for entities engaged in the  
195 business of money transmission. The commissioner may establish requirements for participation  
196 by an applicant in a multi-state licensing system which may vary from the provisions set out in  
197 section 5 and section 6. The applicant shall pay directly to such multi-state licensing system any  
198 additional fee relating to participation in such multi-state licensing system.

199 Section 6. Each license shall state the address at which the business is to be conducted and, if an  
200 authorized agent, the appropriate identification thereof, and shall state fully the name of the  
201 licensee. Immediately upon receipt, the licensee or authorized agent shall cause a copy of such  
202 license to be conspicuously displayed in the place of business of the licensee or the authorized  
203 agent. Such copies for authorized agents may be obtained at a reasonable cost, as determined by  
204 the commissioner.

205 Such license shall not be transferable or assignable and shall expire annually at such time as  
206 determined by the commissioner. The closing of the place of business of the licensee at the  
207 address stated on the license, including an authorized agent, shall require written notification to  
208 the Commissioner within 5 business days after the closing of the location. A change of location  
209 of the licensee at the address stated on the license, including an authorized agent, shall require  
210 prior written notification to the Commissioner 15 business days before the relocation.

211 If there shall be any change among the officers, partners or directors of any licensee or  
212 authorized agent, the licensee shall forthwith notify the commissioner of the name, address and  
213 occupation of each new officer, partner, director, or authorized agent and provide such other  
214 information as the commissioner may require.

215 Section 7. All money received for transmission by any licensee shall be forwarded to the person  
216 to whom the same is directed within seven days following receipt thereof. Receipts given for  
217 deposits of money received for transmission shall contain all appropriate information relative to  
218 the transaction.

219 Section 8. The commissioner may suspend or revoke a license issued pursuant to this chapter if  
220 he finds that:

221 (a) the licensee or an authorized agent has violated a provision of this chapter or any rule or  
222 regulation adopted hereunder or any other law applicable to the conduct of its business; or

223 (b) a fact or condition exists which, if it had existed at the time of the original application for  
224 such license, would have warranted said commissioner in refusing to issue such license.

225 Except as provided in subsection (b) of section nine , no license shall be revoked or suspended  
226 except after notice and hearing pursuant to chapter thirty A.

227 A licensee may surrender a license by delivering to the commissioner written notice that it  
228 hereby surrenders such license, but such surrender shall not affect the civil or criminal liability of  
229 such licensee for acts committed before such surrender.

230 No revocation, suspension or surrender of a license shall impair or affect the obligation of any  
231 preexisting lawful contract between the licensee, either directly or through an authorized agent,  
232 and any person.

233 In lieu of suspension or revocation of a license issued hereunder, the commissioner may fine a  
234 licensee up to a maximum of five hundred dollars per day for each violation.

235 Section 9. (a) If the commissioner determines, after giving notice of and opportunity for a  
236 hearing, that a licensee has engaged in or is about to engage in an act or practice constituting a  
237 violation of a provision of this chapter or a rule, regulation or order adopted hereunder, said  
238 commissioner may order such licensee to cease and desist from such unlawful act or practice and  
239 take such affirmative action as in his judgment will effect the purposes of this chapter.

240 (b) If the commissioner makes written findings of fact that the public interest will be irreparably  
241 harmed by a delay in issuing an order under subsection (a) he may issue a temporary cease and  
242 desist order. Upon the entry of a temporary cease and desist order, the commissioner shall  
243 promptly notify, in writing, the licensee affected thereby that such order has been so entered, the  
244 reasons therefor, and that within twenty days after the receipt of a written request for a hearing  
245 from such licensee, the matter will be scheduled for such hearing to determine whether or not  
246 such temporary order shall become permanent and final. If no such hearing is requested and none  
247 is ordered by the commissioner, the order shall remain in effect until it is modified or vacated by  
248 the commissioner. If a hearing is requested or ordered, the commissioner, after giving notice of  
249 and opportunity for a hearing to the licensee subject to such order, shall, by written finding of  
250 facts and conclusions of law, vacate, modify or issue a permanent cease and desist order.

251 (c) No order under this section, except an order issued pursuant to subsection (b), may be entered  
252 without prior notice and opportunity for a hearing. The commissioner may vacate or modify an  
253 order under this section upon a finding that the conditions which required such order have  
254 changed and that it is in the public interest to vacate or modify such order.

255 An order issued pursuant to this section shall be subject to review as provided in chapter thirty A.

256 Section 10. A licensee shall, when directed by the commissioner, permit the commissioner or  
257 his duly authorized representative to inspect its records and evidence of compliance with this  
258 chapter or any rule and regulation issued thereunder and with any other law, rule and regulation  
259 applicable to the conduct of its business. The commissioner shall preserve a full record of each  
260 such examination of a licensee including a statement of its condition. All records of  
261 investigations and reports of examinations by the commissioner, including workpapers,  
262 information derived from such reports or responses to such reports, and any copies thereof in the  
263 possession of any licensee under the supervision of the commissioner, shall be confidential and  
264 privileged communications, shall not be subject to subpoena and shall not be a public record  
265 under clause twenty-sixth of section 7 of chapter 4. For the purpose of this paragraph, records of  
266 investigation and reports of examinations shall include records of investigation and reports of  
267 examinations conducted by a financial regulatory agency of the federal government and any  
268 other state, and of any foreign government which are considered confidential by such agency or  
269 foreign government and which are in possession of the commissioner. In any proceeding before a  
270 court, the court may issue a protective order to seal the record protecting the confidentiality of  
271 any such record, and other than any such record on file with the court or filed in connection with  
272 the court proceeding, and the court may exclude the public from any portion of a proceeding at  
273 which any such record may be disclosed. Copies of such reports of examination shall be  
274 furnished to a licensee for its use only and shall not be exhibited to any other person,  
275 organization or agency without prior written approval by the commissioner. The commissioner  
276 may, in his discretion, furnish to regulatory agencies of the federal government, of other states,  
277 or of foreign countries, and any law enforcement agency, such information, reports, inspections  
278 and statements relating to the licensees under his supervision.

279           The commissioner, or his examiners or such others of his assistants as he may designate,  
280 may summon the directors, officers or agents of a licensee, or any other witnesses, and examine  
281 them relative to the affairs, transactions and condition of the licensee, and, for that purpose, may  
282 administer oaths. Whoever, without justifiable cause, refuses to appear and testify when so  
283 required or obstructs the person making such examination in the performance of his duty, shall  
284 be punished by a fine of not more than one thousand dollars or by imprisonment for not more  
285 than one year.

286 Section 11. The commissioner, if he has reason to believe that a person other than a licensee has  
287 violated any of the provisions of this chapter, shall be authorized to make such investigations as  
288 he shall deem necessary and may examine such other person and shall compel the production of  
289 all relevant books, records, accounts and documents.

290 Section 12. Each licensee shall annually, on or before a date to be determined by the  
291 commissioner, file a report with the commissioner containing such information as said  
292 commissioner may require concerning the business and operations during the preceding calendar  
293 year. A licensee neglecting to file such report or failing to amend the same within fifteen days of  
294 notice from said commissioner directing the same shall, unless such neglect or failure is due to  
295 justifiable cause and not due to willful neglect, pay to the commonwealth fifty dollars for each  
296 day during which such neglect or failure continues.

297 A licensee shall keep and use such business records in such form and at such location as said  
298 commissioner shall, by regulation, determine, which shall enable said commissioner to determine  
299 whether such licensee is complying with the provisions of this chapter and any rules or  
300 regulations promulgated hereunder by said commissioner and any other law, rule or regulation



301 applicable to the conduct of the business for which it is licensed under this chapter. Such  
302 regulations may contain provisions for the suspension or revocation of licenses for violations  
303 hereof and for such records to be recorded, copied or reproduced by photographic, photostatic,  
304 microfilm, microcard, miniature photographic, electronic, including, but not limited to, optical  
305 imaging, or other process which accurately reproduces or forms a durable medium for  
306 reproducing the original record or document or in any other form or manner authorized by the  
307 commissioner; provided, however, that nothing in this section shall be construed to permit any  
308 such licensee to destroy original records or documents. Each such licensee shall preserve all  
309 such business records for as long a period as the commissioner shall prescribe by regulation.  
310 Notwithstanding the provisions of any general or special law or the Massachusetts Rules of Civil  
311 Procedure to the contrary, service of a subpoena for business records upon a licensee, delivered  
312 to an office of such licensee located within the commonwealth shall be deemed to have been  
313 served at the location, whether within or outside the commonwealth, where the original business  
314 records or documents are kept or maintained.

315 Section 13. The commissioner or an aggrieved party may enforce the provisions of this chapter,  
316 or restrain any violations thereof, by filing a civil action in a court of competent jurisdiction. A  
317 violation of this chapter or a rule or regulation adopted hereunder, shall constitute a violation of  
318 chapter ninety-three A.

319 Section 14. Whoever violates any provision of this chapter or any rule or regulation made  
320 thereunder by the commissioner shall be punished by a fine of not more than five thousand  
321 dollars or by imprisonment in state prison for not more than five years, or both. Each day a  
322 violation continues shall be deemed a separate offense. The penalty provision of this section

323 shall be in addition to, and not in lieu of, any other provision of law applicable to a licensee or  
324 other person for violating section two or any rule or regulation made thereunder.

325 Section 15. (a) Whenever the commissioner finds that any licensee or exempt person under  
326 section two of this chapter has violated any provision of this chapter or any rule or regulation  
327 adopted thereunder, or any other law of the Commonwealth applicable to the conduct of the  
328 business of money transmission, the commissioner may, by order, in addition to any other action  
329 authorized under this chapter or any rule or regulation made thereunder, impose a penalty upon  
330 such person which shall not exceed five thousand dollars for each violation, up to a maximum of  
331 one hundred thousand dollars for such violation plus the costs of investigation. The  
332 commissioner may impose a penalty which shall not exceed five thousand dollars for each  
333 violation of this chapter, or any rule or regulation adopted thereunder, by a person other than a  
334 licensee or exempt person under section two of this chapter, plus the costs of investigation.

335 (b) Nothing in this section shall limit the right of any individual or entity who has been injured as  
336 a result of any violation of this chapter by a licensee, or any person other than a licensee or  
337 exempt person under section two of this chapter, to bring an action to recover damages or  
338 restitution in a court of competent jurisdiction.

339 (c) Any findings or order issued by the commissioner pursuant to this section shall be subject to  
340 review as provided in chapter thirty A.

341 Section 16. (a) Whenever the commissioner determines that any person has, directly or  
342 indirectly, violated any section of this chapter or any rule or regulation adopted thereunder,  
343 applicable to the conduct of the business of money transmission, or any order issued by the

344 commissioner under this chapter or any written agreement entered between such licensee and the  
345 commissioner, the commissioner may serve upon such person a written notice of intention:

346 (1) to prohibit such person from performing in the capacity of a principal employee on behalf of  
347 any licensee for such period of time that the commissioner deems necessary;

348 (2) to prohibit the person from applying for or obtaining a license from the commissioner for a  
349 period up to thirty-six months following the effective date of an order issued under subsection  
350 (b) or (c); or

351 (3) to prohibit such person from any further participation, in any manner, in the conduct of the  
352 business of money transmission in Massachusetts or to prohibit such person from being  
353 employed by, an authorized agent of, or operating on behalf of a licensee under this chapter or  
354 any other business which requires a license from the commissioner.

355 A written notice issued under subsection (a) shall contain a written statement of the facts that  
356 support the prohibition and shall give notice of an opportunity for a hearing to be held thereon.  
357 Such hearing shall be fixed for a date not more than thirty days after the date of service upon the  
358 commissioner of such request for a hearing. If such person fails to submit a request for a hearing  
359 within twenty days of service of notice under subsection (a), or otherwise fails to appear in  
360 person or by a duly authorized representative, such party shall be deemed to have consented to  
361 the issuance of an order of such prohibition in accordance with the notice.

362 In the event of such consent under subsection (b), or if after a hearing the commissioner finds  
363 that any of the grounds specified in such notice have been established, the commissioner may  
364 issue an order of prohibition in accordance with subsection (a) as the commissioner finds  
365 appropriate.

366 An order issued under subsection (b) or (c) shall be effective upon service upon the person. The  
367 commissioner shall also serve a copy of the order upon the licensee of which the person is an  
368 employee or on whose behalf the person is performing. The order shall remain in effect and  
369 enforceable until it is modified, terminated, suspended, or set aside by the commissioner or a  
370 court of competent jurisdiction.

371 Except as consented to in writing by the commissioner, any person who, pursuant to an order  
372 issued under subsection (b) or (c), has been prohibited from participating in whole or in part in  
373 the conduct of the business of money transmission in Massachusetts may not, while such order is  
374 in effect, continue or commence to perform in the capacity of a principal employee, or otherwise  
375 participate in any manner, if so prohibited by order of the commissioner, in the conduct of the  
376 affairs of:

377 any licensee under this chapter;

378 any other business which requires a license from the commissioner; or

379 any bank, as defined under section one of chapter one hundred sixty seven, or any subsidiary  
380 thereof.

381 Section 17. (a) Except as otherwise provided in subsection (b), a surety bond, letter of credit,  
382 or other similar security acceptable to the commissioner in the amount of \$50,000 plus \$10,000  
383 per location, not exceeding a total addition of \$450,000, must accompany an application for a  
384 license.

385 (b) Security must be in a form satisfactory to the commissioner, payable to the Commonwealth,  
386 and delivered to the state treasurer for the benefit of any claimant against the licensee to secure

387 the faithful performance of the obligations of the licensee with respect to money transmission.  
388 The securities deposited with the state treasurer as herein provided and the money which in case  
389 of breach of the bond shall be paid by any licensee or surety thereon, shall constitute a trust fund  
390 for the benefit of such persons as shall deposit money with the licensee or authorized agent for  
391 transmission and such beneficiaries shall be entitled to an absolute preference as to such money  
392 or securities over all general creditors of the licensee.

393 (c) The aggregate liability on a surety bond may not exceed the principal sum of the bond. A  
394 claimant against a licensee may maintain an action on the bond, or the commissioner may  
395 maintain an action on behalf of the claimant.

396 (d) A surety bond must cover claims for so long as the commissioner specifies, but for at least  
397 five years after the licensee ceases to provide money services in this State. However, the  
398 commissioner may permit the amount of security to be reduced or eliminated before the  
399 expiration of that time to the extent the amount of the licensee's payment instruments or stored-  
400 value obligations outstanding in the Commonwealth is reduced. The commissioner may permit a  
401 licensee to substitute another form of security acceptable to the commissioner for the security  
402 effective at the time the licensee ceases to provide money services in the Commonwealth.

403 (e) In lieu of the security prescribed in this section, an applicant for a license or a licensee may  
404 provide security in a form prescribed by the commissioner.

405 (f) The commissioner may increase the amount of security required if the financial condition of a  
406 licensee so requires, as evidenced by reduction of net worth, financial losses, or other relevant  
407 criteria.

408 Section 18. Authorized agents.

409 (a) A licensee engaged in the business of money transmission who intends to  
410 conduct licensed activities through the use of authorized agents shall submit the names and  
411 addresses of such persons listed in the original application to the commissioner for his approval.  
412 Upon the commissioner's approval, a licensee may authorize any such authorized agent to  
413 conduct business as the agent for said licensee at the address approved by the commissioner.  
414 There shall be an express written contract between the parties detailing the duties and  
415 responsibilities of such authorized agent. . Additional authorized agents shall not be appointed  
416 without the prior written approval of the commissioner, and a licensee shall notify the  
417 commissioner within two business days after the termination of any authorized agent by the  
418 licensee.

419 (b) A contract between a licensee and an authorized agent must require the authorized agent to  
420 operate in full compliance with this chapter. The licensee shall furnish in a record to each  
421 authorized agent policies and procedures sufficient to permit compliance with this chapter.

422 (c) An authorized agent shall remit all money owing to the licensee in accordance with the terms  
423 of the contract between the licensee and the authorized agent.

424 (d) An authorized agent may not provide money transmission services outside the scope of  
425 activity permissible under the contract between the authorized agent and the licensee.

426 Section 19. Permissible investments.

427 (a) A licensee shall maintain at all times permissible investments that have a market value  
428 computed in accordance with generally accepted accounting principles of not less than the  
429 aggregate amount of all of its outstanding payment instruments issued or sold and money  
430 transmitted by the licensee or its authorized agents.

431 (b) The commissioner, with respect to any licensees, may limit the extent to which a type of  
432 investment within a class of permissible investments may be considered a permissible  
433 investment, except for money and certificates of deposit issued by a bank. The commissioner by  
434 rule may prescribe or by order allow other types of investments that the commissioner  
435 determines to have a safety standard substantially equivalent to other permissible investments.

436 (c) Permissible investments, even if commingled with other assets of the licensee, are held in  
437 trust for the benefit of the purchasers and holders of the licensee's outstanding payment  
438 instruments in the event of bankruptcy or receivership of the licensee.

439 SECTION 3. Section 4 of chapter 169 of the General Laws, inserted by section 2, shall take  
440 effect upon its passage. Section 1 and the remainder of section 2 shall take effect 9 months after  
441 the date of its passage.