

**HOUSE . . . . . No. 970**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**Ronald Mariano**

*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 licensing and supervision of money transmitters by the division of banks.

PETITION OF:

NAME:

Ronald Mariano

DISTRICT/ADDRESS:

3rd Norfolk

# The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

## AN ACT RELATIVE TO THE LICENSING AND SUPERVISION OF MONEY TRANSMITTERS 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 SECTION 2. The General Laws are hereby amended by striking out chapter 169, as appearing in  
10 the 2006 Official Edition, and inserting in place thereof the following chapter:--

### Chapter 169

#### Licensing and Supervision of Money Transmitters

##### Section 1: Definitions

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

17 “Commissioner,” the commissioner of banks.

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

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

24 “Electronic Instrument,” a card or other tangible object for the transmission or payment of  
25 money which contains a microprocessor chip, magnetic stripe, or other means for the storage of  
26 information, that is prefunded and for which the value is decremented upon each use, but does  
27 not include a card or other tangible object that is redeemable by the issuer in the issuer’s goods  
28 or services.

29 “Licensee,” a person licensed under this Chapter to engage in the business of money  
30 transmission.

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

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

39 “Outstanding payment instrument,” any payment instrument issued by the licensee which has  
40 been sold in the United States directly by the licensee or any payment instrument issued by the  
41 licensee which has been sold by an authorized agent of the licensee in the United States, which  
42 has been reported to the licensee as having been sold and which has not yet been paid by or for  
43 the licensee.

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

49 “Permissible Investments”

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

- 52 1. cash, a certificate of deposit, or senior debt obligation of an insured depository institution, as  
53 defined in Section 3 of the Federal Deposit Insurance Act [12 U.S.C. Section 1813 (1994 &  
54 Supp. V. 1999)];
- 55 2. banker’s acceptance or bill of exchange that is eligible for purchase upon endorsement by a  
56 member bank of the Federal Reserve System and is eligible for purchase by a Federal

57 Reserve Bank;

58 3. an investment bearing a rating of one of the three highest grades as defined by a nationally  
59 recognized organization that rates securities;

60 4. an investment security that is an obligation of the United States or a department, agency, or  
61 instrumentality thereof; an investment in an obligation that is guaranteed fully as to principal  
62 and interest by the United States; or an investment in an obligation of a State or a  
63 governmental subdivision, agency, or instrumentality thereof;

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

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

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

76 1. an interest-bearing bill, note, bond, or debenture of a person whose equity shares are traded  
77 on a national securities exchange or on a national over-the-counter market, if the aggregate of  
78 investments under this paragraph does not exceed 20 percent of the total permissible  
79 investments of a licensee and the licensee does not at one time hold investments under this

80 paragraph in any one person aggregating more than 10 percent of the licensee's total  
81 permissible investments;

82 2. a share of a person traded on a national securities exchange or a national over-the-counter  
83 market or a share or a certificate issued by an open-end management investment company  
84 that is registered with the United States Securities and Exchange Commission under the  
85 Investment Companies Act of 1940 [15 U.S.C. Section 80a-1-64 (1994 & Supp. V 1999)],  
86 and whose portfolio is restricted by the management company's investment policy to shares  
87 of a person traded on a national securities exchange or a national over-the-counter market, if  
88 the aggregate of investments under this paragraph does not exceed 20 percent of the total  
89 permissible investments of a licensee and the licensee does not at one time hold investments  
90 in any one person aggregating more than 10 percent of the licensee's total permissible  
91 investments;

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

99 4. any other investment the commissioner designates, to the extent specified by the  
100 commissioner.

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

103 “Person,” any individual, partnership, association, joint-stock association, trust, limited liability  
104 company, limited liability partnership or corporation.

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

107 “Principal shareholder,” any person or group of persons acting in concert who is the owner of ten  
108 percent or more of any voting class of an applicant’s stock.

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

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

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

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

118 (1) the United States or a department, agency, or instrumentality thereof;

119 (2) money transmission by the United States Postal Service or by a contractor on behalf of the  
120 United States Postal Service;

121 (3) a State or a governmental subdivision, agency, or instrumentality thereof;

122 (4) a bank, as defined in section one of chapter one hundred and sixty-seven, a federally-  
123 chartered bank as defined in section one of chapter 167F, a bank holding company, an

124 office of an international banking corporation, a branch of a foreign bank, a corporation  
125 organized pursuant to the Bank Services Act, or a corporation organized under the Edge  
126 Act under the laws of a State or the United States if the person does not issue, sell, or  
127 provide payment instruments or stored value through an authorized agent that is not such a  
128 person;

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

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

136 (7) a registered futures commission merchant under the federal commodities laws to the extent  
137 of its operation as such a merchant;

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

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

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



147 **Section 4.** The commissioner may adopt, amend, or repeal rules and regulations, which may  
148 include an adequate capitalization requirement for money transmitters to aid in the  
149 administration and enforcement of this chapter. Such rules and regulations may specify the  
150 supervision of operations and code of conduct of authorized agents.

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

169 than one location, including authorized agents, such licensee shall procure a license for each  
170 location where such business shall be conducted.

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

193 and, as justice and equity may require, affirm the same or order the commissioner to issue such license.

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

200 Such license shall not be transferable or assignable and shall expire annually at such time as  
201 determined by the commissioner. A change of location or closing of the place of business of the  
202 licensee at the address stated on the license, including an authorized agent, shall require prior  
203 approval of the commissioner. A request for such relocation shall be in writing setting forth the  
204 reasons therefor and shall be accompanied by a relocation investigation fee to be determined  
205 annually by the commissioner of administration under the provisions of section three B of  
206 chapter seven.

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

211 **Section 7.** All money received for transmission by any licensee shall be forwarded to the person  
212 to whom the same is directed within seven days following receipt thereof. Receipts given for  
213 deposits of money received for transmission to a foreign country shall be on forms approved by  
214 the commissioner.

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

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

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

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

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

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

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

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

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

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

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

252 **Section 10.** A licensee shall, when directed by the commissioner, permit the commissioner or  
253 his duly authorized representative to inspect its records and evidence of compliance with this  
254 chapter or any rule and regulation issued thereunder and with any other law, rule and regulation  
255 applicable to the conduct of its business. The commissioner shall preserve a full record of each  
256 such examination of a licensee including a statement of its condition. All records of  
257 investigations and reports of examinations by the commissioner, including workpapers,  
258 information derived from such reports or responses to such reports, and any copies thereof in the  
259 possession of any licensee under the supervision of the commissioner, shall be confidential and

260 privileged communications, shall not be subject to subpoena and shall not be a public record  
261 under clause twenty-sixth of section 7 of chapter 4. For the purpose of this paragraph, records of  
262 investigation and reports of examinations shall include records of investigation and reports of  
263 examinations conducted by a financial regulatory agency of the federal government and any  
264 other state, and of any foreign government which are considered confidential by such agency or  
265 foreign government and which are in possession of the commissioner. In any proceeding before a  
266 court, the court may issue a protective order to seal the record protecting the confidentiality of  
267 any such record, and other than any such record on file with the court or filed in connection with  
268 the court proceeding, and the court may exclude the public from any portion of a proceeding at  
269 which any such record may be disclosed. Copies of such reports of examination shall be  
270 furnished to a licensee for its use only and shall not be exhibited to any other person,  
271 organization or agency without prior written approval by the commissioner. The commissioner  
272 may, in his discretion, furnish to regulatory agencies of the federal government, of other states,  
273 or of foreign countries, and any law enforcement agency, such information, reports, inspections  
274 and statements relating to the licensees under his supervision.

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

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

286 **Section 12.** Each licensee shall annually, on or before a date to be determined by the  
287 commissioner, file a report with the commissioner containing such information as said  
288 commissioner may require concerning the business and operations during the preceding calendar

289 year. A licensee neglecting to file such report or failing to amend the same within fifteen days of  
290 notice from said commissioner directing the same shall, unless such neglect or failure is due to  
291 justifiable cause and not due to willful neglect, pay to the commonwealth fifty dollars for each  
292 day during which such neglect or failure continues.

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

311 **Section 13.** The commissioner or an aggrieved party may enforce the provisions of this chapter,

312 or restrain any violations thereof, by filing a civil action in a court of competent jurisdiction. A  
313 violation of this chapter or a rule or regulation adopted hereunder, shall constitute a violation of  
314 chapter ninety-three A.

315 **Section 14.** Whoever violates any provision of this chapter or any rule or regulation made  
316 thereunder by the commissioner shall be punished by a fine of not more than five thousand  
317 dollars or by imprisonment in state prison for not more than five years, or both. Each day a  
318 violation continues shall be deemed a separate offense. The penalty provision of this section  
319 shall be in addition to, and not in lieu of, any other provision of law applicable to a licensee or  
320 other person for violating section two or any rule or regulation made thereunder.

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

331 (b) Nothing in this section shall limit the right of any individual or entity who has been injured  
332 as a result of any violation of this chapter by a licensee, or any person other than a licensee or



333 exempt person under section two of this chapter, to bring an action to recover damages or  
334 restitution in a court of competent jurisdiction.

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

337 **Section 16.** (a) Whenever the commissioner determines that any person has, directly or  
338 indirectly, violated any section of this chapter or any rule or regulation adopted thereunder,  
339 applicable to the conduct of the business of money transmission, or any order issued by the  
340 commissioner under this chapter or any written agreement entered between such licensee and the  
341 commissioner, the commissioner may serve upon such person a written notice of intention:

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

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

347 (3) to prohibit such person from any further participation, in any manner, in the conduct  
348 of the affairs of a money transmitter in Massachusetts or to prohibit such person from  
349 being employed by, an authorized agent of, or operating on behalf of a licensee under this  
350 chapter or any other business which requires a license from the commissioner.

351 (b) A written notice issued under subsection (a) shall contain a written statement of the facts that  
352 support the prohibition and shall give notice of an opportunity for a hearing to be held  
353 thereon. Such hearing shall be fixed for a date not more than thirty days after the date of  
354 service upon the commissioner of such request for a hearing. If such person fails to submit a

355 request for a hearing within twenty days of service of notice under subsection (a), or  
356 otherwise fails to appear in person or by a duly authorized representative, such party shall be  
357 deemed to have consented to the issuance of an order of such prohibition in accordance with  
358 the notice.

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

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

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

- 374 (1) any licensee under this chapter;
- 375 (2) any other business which requires a license from the commissioner; or
- 376 (3) any bank, as defined under section one of chapter one hundred sixty seven, or  
377 any subsidiary thereof.

378 **Section 17.** (a) Except as otherwise provided in subsection (b), a surety bond, letter of  
379 credit, or other similar security acceptable to the commissioner in the amount of \$50,000 plus  
380 \$10,000 per location, not exceeding a total addition of \$450,000, must accompany an  
381 application for a license.

382 (b) Security must be in a form satisfactory to the commissioner, payable to the Commonwealth,  
383 and delivered to the state treasurer for the benefit of any claimant against the licensee to  
384 secure the faithful performance of the obligations of the licensee with respect to money  
385 transmission. The securities deposited with the state treasurer as herein provided and the  
386 money which in case of breach of the bond shall be paid by any licensee or surety thereon,  
387 shall constitute a trust fund for the benefit of such persons as shall deposit money with the  
388 licensee or authorized agent for transmission and such beneficiaries shall be entitled to an  
389 absolute preference as to such money or securities over all general creditors of the licensee.

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

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

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

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

406 **Section 18. Authorized agents.**

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

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

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

421 (d) If a license is suspended or revoked or a licensee does not renew its license, the  
422 commissioner shall notify all authorized agents of the licensee whose names are in a record filed  
423 with the commissioner of the suspension, revocation, or non-renewal. After notice is sent or

424 publication is made, an authorized agent shall immediately cease to transmit money as an agent  
425 of the licensee.

426 (e) An authorized agent may not provide money transmission services outside the scope of  
427 activity permissible under the contract between the authorized agent and the licensee.

428 **Section 19. Permissible investments.**

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

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

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