

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 850 Session of  
2015

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INTRODUCED BY MACKENZIE, GROVE, A. HARRIS, MILLARD, GABLER,  
COHEN AND MURT, MARCH 26, 2015

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SENATOR WHITE, BANKING AND INSURANCE, IN SENATE, AS AMENDED,  
SEPTEMBER 27, 2016

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## AN ACT

1 Amending the act of September 2, 1965 (P.L.490, No.249),  
2 entitled "An act providing for the licensing and regulation  
3 of the business of transmitting money or credit for a fee or  
4 other consideration by the issuance of money orders, by the  
5 sale of checks or by other methods; conferring powers and  
6 duties upon the Department of Banking; and imposing  
7 penalties," further providing for title of act, for  
8 definitions, for license required and for exemptions;  
9 repealing provisions relating to partial exemption; further  
10 providing for qualifications for a license, for application  
11 for license, for fee, financial statement and security, for  
12 investigation issuance of license, for term of license, for  
13 renewal of licenses and for authority of the Department of  
14 Banking; providing for suspension, revocation or refusal and  
15 for licensee requirements; further providing for agents and  
16 subagents; repealing provisions relating to hearing and  
17 appeal, injunctions, rules and regulations and examinations  
18 by the Secretary of Banking; and further providing for  
19 penalties.

20 This act may be referred to as the Money Transmitter Act.

21 The General Assembly of the Commonwealth of Pennsylvania  
22 hereby enacts as follows:

23 Section 1. The title of the act of September 2, 1965  
24 (P.L.490, No.249), referred to as the Money Transmission  
25 Business Licensing Law, is amended to read:

AN ACT

Providing for the licensing and regulation of the business of transmitting money or credit for a fee or other consideration by the issuance of money orders, by the sale of checks or by other methods; conferring powers and duties upon the Department of Banking and Securities; and imposing penalties.

Section 2. Section 1 of the act, amended July 2, 1996 (P.L.486, No.79), is amended to read:

Section 1. Definitions.--Unless the context clearly indicates otherwise, the following words when used in this act shall have the following meanings:

[(1) "Person" includes an individual or an organization but does not include the governments of the United States or of the Commonwealth of Pennsylvania.

(2) "Transmittal instrument" means any check, draft, money order, personal money order or method for the payment of money or transmittal of credit, other than a merchandise gift certificate sold in the regular course of business by a vendor of personal property or services.

(3) "Personal money order" means any transmittal instrument in relation to which the purchaser or remitter appoints the seller thereof as his agent for the handling of the transmittal instrument or its proceeds no matter by whom such transmittal instrument is signed.

(4) "Deliver" means surrendering a transmittal instrument to the first person, who in payment for the same makes a remittance of the whole or a part of the face amount thereof, whether or not the person delivering the instrument charges a fee in addition to the face amount and whether or not he signs the same.

1 (5) "Accelerated mortgage payment providers" includes  
2 persons who receive funds from mortgagors to make mortgage  
3 payments to a lender or lenders, on behalf of those mortgagors,  
4 in order to exceed regularly scheduled minimum payment  
5 obligations under the terms of the indebtedness. This term does  
6 not include persons or entities described in section 3.]

7 "Agent" means any person that provides money transmission  
8 services on behalf of another person.

9 "Closed loop system" means a system in which an entity issues  
10 a transmittal instrument which can be used at various physical  
11 or virtual locations of that entity.

12 "Commission" means the Banking and Securities Commission of  
13 the Commonwealth, as established under Subarticle C of Article  
14 XI-A of the act of May 15, 1933 (P.L.565, No.111), known as the  
15 Department of Banking and Securities Code.

16 "Department" means the Department of Banking and Securities  
17 of the Commonwealth.

18 "Goods" means personal property bought primarily for  
19 personal, family or household use.

20 "Government benefit" means money or monetary value given to  
21 an individual by a Federal, State or local government agency for  
22 purposes of financial assistance, including unemployment  
23 compensation, supplemental nutritional assistance program  
24 benefits and Social Security benefits.

25 "Hybrid closed loop system" means a system in which an entity  
26 issues a transmittal instrument which may be used at a limited  
27 number of establishments or entities which have a common bond to  
28 the issuing entity and in which the establishments or entities  
29 have a written agreement to honor the transmittal instrument.

30 "License" means a license under this act.

1 "Money" means currency or legal tender or any other product  
2 that is generally recognized as a medium of exchange.

3 "Person" includes an individual or an organization but does  
4 not include the Federal Government or the government of the  
5 Commonwealth or any other state, or any political subdivisions  
6 or instrumentalities of such governments.

7 "Personal money order" means any transmittal instrument in  
8 relation to which the purchaser or remitter appoints the seller  
9 thereof as the agent for the handling of the transmittal  
10 instrument or its proceeds no matter by whom the transmittal  
11 instrument is signed.

12 "Public utility" means the term as defined in 66 Pa.C.S. §  
13 102 (relating to definitions).

14 "Services" means work, labor and services for other than a  
15 commercial or business use.

16 "Stored value" means money or monetary value in a digital  
17 electronic format, stored or capable of storage on an electronic  
18 medium in such a manner as to be retrievable and transferable  
19 electronically.

20 "Tangible net worth" means an entity's net worth less  
21 intangible assets as determined by generally accepted accounting  
22 principles.

23 "Transmittal instrument" means any check, draft, money order,  
24 personal money order, debit card, stored value card, electronic  
25 transfer or other method for the payment of money or transmittal  
26 of credit, other than a merchandise gift certificate or  
27 instrument with a similar purpose sold in the regular course of  
28 business by a vendor of personal property or services in a  
29 closed loop system or hybrid closed loop system.

30 Section 3. Section 2 of the act is amended to read:

1 Section 2. License Required.--(a) No person shall engage in  
2 the business of transmitting money by means of a transmittal  
3 instrument for a fee or other consideration with or on behalf of  
4 an individual without first having obtained a license from the  
5 [Department of Banking nor shall any person engage in such  
6 business as an agent except as an agent of a person licensed or  
7 exempted under this act.] department.

8 (b) This act does not apply to money transmission between  
9 business entities in connection with commercial contracts,  
10 unless the contracts involve money transmission for personal or  
11 household purposes involving individuals.

12 Section 4. Section 3 of the act, amended July 2, 1996  
13 (P.L.486, No.79), is amended to read:

14 Section 3. Exemptions.--No license shall be required  
15 [hereunder of] for any of the following:

16 (1) [banks] Banks, bank and trust companies, credit unions,  
17 savings banks and private banks organized under the laws of this  
18 Commonwealth; similar banking institutions organized under the  
19 laws of the United States or of any other state which are  
20 insured by the Federal Deposit Insurance Corporation; similar  
21 credit unions organized under the laws of the United States or  
22 another state, and insured by the National Credit Union Share  
23 Insurance Fund; and savings and loan associations and building  
24 and loan associations organized under the laws of [this  
25 Commonwealth] another state or of the United States; or their  
26 agents.

27 (2) [agents] Agents of a person licensed under this act.

28 (3) Agents of a Federal, State or local government agency,  
29 to the extent that such agents are disbursing government  
30 benefits.

1 (4) Agents that receive payments from individuals on behalf  
2 of persons that are creditors, public utilities or providers of  
3 goods or services.

4 Section 5. Section 3.1 of the act is repealed:

5 [Section 3.1. Partial Exemption.--Accelerated mortgage  
6 payment providers shall be exempt from clause (1) of section 4  
7 and clause (2) of subsection (a) of section 6 relating to a net  
8 worth requirement and proof thereof but otherwise shall be  
9 subject to the terms and licensing requirements of this act.]

10 Section 6. Section 4 of the act, amended July 9, 1977,  
11 (P.L.70, No.25), is amended to read:

12 Section 4. Qualifications for a License.--(a) To qualify  
13 for a license [hereunder] an applicant shall:

14 (1) have a tangible net worth of at least five hundred  
15 thousand dollars (\$500,000); and

16 [(2) in the case of an individual, have at least five years'  
17 experience in business and be of good character and reputation,  
18 or, in the case of an organization, have officers and directors  
19 who meet the requirements specified in this clause for an  
20 individual applicant; and]

21 (3) undertake to operate the business honestly, fairly and  
22 in accordance with this act.

23 [No applicant shall be qualified to receive a license if he  
24 or, in the event that the applicant is an organization, if any  
25 of its officers or directors has been convicted within five  
26 years of violating this act.]

27 (b) The department may deny a license if it finds that the  
28 applicant, or a director, officer, partner, employee, agent or  
29 ultimate equitable owner of ten percent or more of the  
30 applicant, has been convicted of a crime of moral turpitude or

1 felony in any jurisdiction, or has been convicted of a crime  
2 which, if committed in this Commonwealth, would constitute a  
3 crime of moral turpitude or felony, at any time during the seven  
4 years prior to the license application. For purposes of this  
5 subsection, a person shall be deemed to have been convicted of a  
6 crime if the person:

7 (1) has pleaded guilty or nolo contendere to a criminal  
8 charge before a domestic, foreign or military court or Federal  
9 magistrate; or

10 (2) has been found guilty by a decision or judgment of a  
11 domestic, foreign or military court or Federal magistrate or by  
12 a verdict of a jury, irrespective of the pronouncement of  
13 sentence or the suspension thereof, unless the plea of guilty or  
14 nolo contendere or the decision, judgment or verdict is set  
15 aside, vacated, reversed or otherwise abrogated by lawful  
16 judicial process.

17 (c) The department may deny a license or otherwise restrict  
18 a license if it finds that the applicant, or a director,  
19 officer, partner, employee, agent or ultimate equitable owner of  
20 ten percent or more of the applicant:

21 (1) has had a license or license application denied, not  
22 renewed, suspended or revoked by the department, another  
23 Commonwealth licensing agency or any other Federal or State  
24 regulatory agency;

25 (2) is the subject of an order of the department or any  
26 other regulatory agency;

27 (3) has violated or failed to comply with any provision of  
28 this act or any regulation, statement of policy or order of the  
29 department;

30 (4) has any outstanding debt to the Commonwealth or any

1 Commonwealth agency; or  
2 (5) does not possess the financial responsibility,  
3 character, reputation, integrity and general fitness to command  
4 confidence of the public to warrant the belief that the money  
5 transmission business will be operated lawfully, honestly,  
6 fairly and within the legislative intent of this act and in  
7 accordance with the general laws of this Commonwealth. For  
8 purposes of this clause, an applicant is not financially  
9 responsible if the applicant has shown a disregard in the  
10 management of the applicant's own financial condition. The  
11 factors that the department may consider in making a  
12 determination regarding an applicant's financial responsibility  
13 shall include:

14 (i) current outstanding judgments, other than judgments  
15 solely as a result of medical expenses;

16 (ii) current outstanding tax liens or other government liens  
17 and filings;

18 (iii) foreclosures or bankruptcies within the past three  
19 years; or

20 (iv) a pattern of seriously delinquent accounts within the  
21 past three years.

22 (d) The department may impose conditions on the issuance of  
23 a license. If the department determines that conditions imposed  
24 upon a licensee have not been fulfilled, the department may take  
25 any action authorized under this act against the licensee that  
26 the department deems necessary.

27 Section 7. Section 5 of the act, amended July 2, 1996  
28 (P.L.486, No.79), is amended to read:

29 Section 5. Application for License.--(a) Applications for  
30 license shall be in [writing under oath and in] the form

1 prescribed by the [Department of Banking] department. Among  
2 other things, the application shall state the full name of

3 (1) the applicant, if an individual;

4 (2) each partner, if the applicant is a partnership;

5 (3) each trustee and officer thereof, if the applicant is a  
6 trust;

7 (4) each officer and director thereof, if the applicant is a  
8 corporation, joint stock association or other unincorporated  
9 association;

10 (5) each other business in which applicant and any  
11 affiliated companies are engaged; and

12 (6) the name and address of each agent or subagent  
13 conducting business in this Commonwealth.

14 (b) A person applying for a new or renewal license and who  
15 is not located in this Commonwealth shall file with the  
16 application for license an irrevocable consent, duly  
17 acknowledged, that suits and actions may be commenced against  
18 that person in the courts of this Commonwealth by the service of  
19 process of any pleading upon the department in the usual manner  
20 provided for service of process and pleadings by the statutes  
21 and court rules of this Commonwealth. The consent shall provide  
22 that this service shall be as valid and binding as if service  
23 had been made personally upon the applicant in this  
24 Commonwealth. In all cases where process or pleadings are served  
25 upon the department pursuant to the provisions of this section,  
26 such process or pleadings shall be served in triplicate; one  
27 copy shall be filed [in the office of the Secretary of Banking]  
28 with the department and the other shall be forwarded by the  
29 department, by certified or registered mail, return receipt  
30 requested, to the last known principal place of business in this

1 Commonwealth and to the person's principal place of business.

2 Section 8. Section 6 of the act, amended July 9, 1977  
3 (P.L.70, No.25), is amended to read:

4 Section 6. Fee, Financial Statement and Security.--(a) Each  
5 application for a license shall be accompanied by:

6 (1) an [investigation fee of one thousand dollars (\$1,000)  
7 which shall not be subject to refund but which, if the license  
8 is granted, shall constitute the license fee for the first  
9 license period. The renewal fee shall be three hundred dollars  
10 (\$300)] application fee of five thousand dollars (\$5,000);

11 (2) a financial statement showing a tangible net worth of at  
12 least five hundred thousand dollars (\$500,000);

13 (3) a bond in the penal sum of one million dollars  
14 (\$1,000,000) executed by a surety company authorized to transact  
15 business within the Commonwealth of Pennsylvania or securities  
16 as provided in the following subsection. The bond shall run to  
17 the Commonwealth of Pennsylvania and shall be for the use of the  
18 Commonwealth and of any person or persons who may have a cause  
19 of action against the licensee for failure to carry out the  
20 terms of any transmittal instrument which the licensee shall  
21 have issued and who were residents of the Commonwealth of  
22 Pennsylvania at the time the cause of action arose. The  
23 condition of the bond shall be that the licensee will comply  
24 with and abide by the provisions of this act and the rules and  
25 regulations of the [Department of Banking] department lawfully  
26 promulgated under this act and that the licensee will pay to the  
27 Commonwealth, to the [Department of Banking] department or to  
28 any other person any moneys that may become due from the  
29 licensee to the Commonwealth or to the [Department of Banking]  
30 department or to any other person under the provisions of this

1 act or of any transmittal instrument issued by the licensee  
2 within this Commonwealth and who were residents of the  
3 Commonwealth of Pennsylvania at the time the cause of action  
4 arose. If any person shall be aggrieved by the misconduct of any  
5 licensee, he may upon recovering judgment against such licensee,  
6 issue execution under such judgment and maintain an action upon  
7 the bond of the licensee in any court having jurisdiction of the  
8 amount claimed, provided the [Department of Banking] department  
9 assents thereto.

10 [(b) In lieu of the bond required by clause (3) of  
11 subsection (a) hereof, the applicant may deposit with the  
12 Department of Banking or with the State Treasurer of the  
13 Commonwealth of Pennsylvania bonds, notes, debentures or other  
14 obligations of the United States or any agency or  
15 instrumentality thereof if guaranteed by the United States, or  
16 such bonds, notes, debentures or other obligations of this  
17 Commonwealth or of a political subdivision thereof having a  
18 market value of at least one million dollars (\$1,000,000); and  
19 it shall be the obligation of the licensee to see to it that the  
20 securities on deposit shall have a market value of at least one  
21 million dollars (\$1,000,000) at all times. The depositor shall  
22 be entitled to receive all interest and dividends thereon, and  
23 shall have the right, with the approval of the Department of  
24 Banking, to substitute other securities for those deposited.  
25 Should the securities on deposit at any time have a market value  
26 of less than one million dollars (\$1,000,000) the Department of  
27 Banking may revoke the license as hereinafter provided. All  
28 securities deposited shall be held under the same conditions and  
29 subject to the same right of execution as the bond provided for  
30 in clause (3) of subsection (a) hereof.]

1 (b.1) If the [Department of Banking] department, in its  
2 discretion, shall determine the bond or deposit of securities  
3 provided for in clause (3) of subsection (a) [and subsection (b)  
4 hereof] is not adequate, the [Department of Banking] ~~department~~ <--  
5 may require an additional bond ~~for the deposit of additional~~ <--  
6 ~~securities~~ in an amount up to ~~one million dollars~~ <--  
7 ~~(\$1,000,000);] twice the average daily outstanding balance of <--  
8 money received for transmission in this Commonwealth during the  
9 thirty days preceding the department's requirement DEPARTMENT <--  
10 MAY, AFTER AN EXAMINATION AND A CONSENT AGREEMENT OR ORDER,  
11 REQUIRE AN ADDITIONAL BOND IN AN AMOUNT UP TO THE AVERAGE DAILY  
12 OUTSTANDING BALANCE OF MONEY RECEIVED FOR TRANSMISSION IN THIS  
13 COMMONWEALTH DURING THE THIRTY DAYS PRECEDING THE DEPARTMENT'S  
14 REQUIREMENT PLUS AN ADDITIONAL TEN PERCENT OF THE AMOUNT OF THE  
15 AVERAGE DAILY OUTSTANDING BALANCE subject to the same conditions  
16 and the same right of execution provided for in clause (3) of  
17 subsection (a) [and subsection (b) hereof].~~

18 (c) Should any licensee become insolvent, the principal sum  
19 of the bond [or the securities deposited in lieu of a bond]  
20 shall be applied to the payment in full of claims arising out of  
21 the issuance of transmittal instruments in this Commonwealth and  
22 any administrative costs incurred by or fines imposed by the  
23 department.

24 Section 9. Sections 7 and 8 of the act are amended to read:

25 Section 7. Investigation Issuance of License.--(a) Upon the  
26 filing of [an application and the payment of the fee for  
27 investigating the same, the Department of Banking] a new license  
28 application, the department shall make such investigation as is  
29 necessary to determine whether the applicant is qualified to  
30 receive a license [under this act]. If [so], after reasonable

1 investigation of the new license application it is determined  
2 that the applicant qualifies for a license, a license shall be  
3 issued. If [not] it is determined that the applicant does not  
4 qualify for a license, the application shall be denied.

5 (b) Whenever the [Secretary of Banking] department rejects  
6 an application for a license [he] it shall furnish the applicant  
7 with a written specification of the reason or reasons therefor.  
8 Any applicant whose application for a license is rejected by the  
9 [Secretary of Banking] department may within thirty days' notice  
10 of the rejection request that the [Department of Banking]  
11 department hold a hearing.

12 Section 8. Term of License.--Licenses issued under this act  
13 shall be for a term [expiring January first of the year  
14 following issuance] of not more than fourteen months as  
15 determined by the department.

16 Section 10. Section 9 of the act, amended July 9, 1977  
17 (P.L.70, No.25), is amended to read:

18 Section 9. Renewal of Licenses.--(a) All applications for  
19 renewals of licenses shall be filed with the [Department of  
20 Banking at least sixty days] department before the expiration  
21 date of the license. Unless the department shall have given to  
22 the applicant twenty days' previous notice of objections to the  
23 renewal of his license based upon the violation of this act or  
24 upon the licensee's failure any longer to have the  
25 qualifications required for the issuance of a license, the  
26 license shall be renewed upon the payment of the renewal fee of  
27 five thousand dollars (\$5,000).

28 (b) The renewal application shall be accompanied by a bond  
29 [or evidence of the maintenance with the State Treasurer of a  
30 deposit of securities] in conformity with the requirements

1 applicable to an original application for license. The bond [or  
2 securities] shall be in the same amounts and subject to the same  
3 terms and conditions as in the case of an original application,  
4 unless an additional bond [or deposit of securities] is required  
5 under the provisions of subsection [(c)] (b.1) of section 6.

6 [(c) No investigation fee shall be payable to the Department  
7 of Banking upon the filing of an application for license  
8 renewal.]

9 Section 11. Section 10 of the act, amended July 2, 1996  
10 (P.L.486, No.79), is amended to read:

11 Section 10. Authority of the Department [of Banking].--[(a)  
12 The Department of Banking shall have the right to suspend or  
13 revoke the original or any renewed license granted under this  
14 act if

15 (1) the licensee's bond or securities become inadequate and  
16 the licensee after notice fails forthwith to furnish an adequate  
17 bond or securities in the amount required by this act; or

18 (2) the licensee shall violate any provision of the act or  
19 any rule or regulation issued by the Department of Banking under  
20 authority of this act; or

21 (3) the licensee shall fail to comply with any demand, rule  
22 or regulation lawfully made by the Department of Banking under  
23 authority of this act; or

24 (4) the licensee shall refuse to permit the Department of  
25 Banking or its designated representative to make any examination  
26 authorized by this act; or

27 (5) if any fact or condition is discovered which, if it had  
28 been known at the time of the filing of the application for the  
29 license, would have warranted the Department of Banking in  
30 denying the application.

1 (b) The Department of Banking may release reports and other  
2 pertinent information if it determines that release of such  
3 information is reasonably necessary for the protection of the  
4 public and in the interest of justice, in which case the  
5 information may be released only to a representative of an  
6 agency, department or instrumentality of this Commonwealth,  
7 another state or Federal Government.] (a) The department shall  
8 have the authority to:

9 (1) Examine any instrument, document, account, book, record  
10 or file of a licensee or any person having a connection to the  
11 licensee or make other investigation as may be necessary to  
12 administer the provisions of this act. Pursuant to this  
13 authority, the department may remove any instrument, document,  
14 account, book, record or file of a licensee to a location  
15 outside of the licensee's office location. A person who is not  
16 licensed under this act shall be presumed to be engaged in  
17 business contemplated by this act if the person advertises or  
18 solicits business for which a license is required by the  
19 provisions of this act. In those cases, the department is  
20 authorized to examine the books, accounts, papers, records,  
21 documents, files, safes and vaults of the persons for the  
22 purpose of discovering violations of this act. The costs of the  
23 examination shall be borne by the licensee or the entity subject  
24 to the examination.

25 (2) Conduct administrative hearings on any matter pertaining  
26 to this act, issue subpoenas to compel the attendance of  
27 witnesses and the production of instruments, documents,  
28 accounts, books and records at any hearing. The instruments,  
29 documents, accounts, books and records may be retained by the  
30 department until the completion of all proceedings in connection

1 with which the materials were produced. A department official  
2 may administer oaths and affirmations to a person whose  
3 testimony is required. In the event a person fails to comply  
4 with a subpoena issued by the department or to testify on a  
5 matter concerning that which the person may be lawfully  
6 interrogated, on application by the department, the Commonwealth  
7 Court may issue an order requiring the attendance of the person,  
8 the production of instruments, documents, accounts, books and  
9 records and the giving of testimony.

10 (3) Request and receive information or records of any kind,  
11 including reports of criminal history record information from  
12 any Federal, State, local or foreign government entity regarding  
13 an applicant for a license, licensee or person related in any  
14 way to the business of the applicant or licensee, at a cost to  
15 be paid by the applicant or licensee.

16 (4) Issue regulations, statements of policy or orders as may  
17 be necessary for the proper conduct, including safety and  
18 soundness, of the money transmission business by licensees, the  
19 issuance and renewal of licenses and the enforcement of this  
20 act.

21 (5) Prohibit or permanently remove a person or licensee  
22 responsible for a violation of this act from working in the  
23 present capacity or in any other capacity of the person or  
24 licensee related to activities regulated by the department.

25 (6) Order a person or licensee to make restitution for  
26 actual damages to individuals caused by any violation of this  
27 act.

28 (7) Issue cease and desist orders that are effective  
29 immediately, subject to a hearing as specified in subsection (b)  
30 within fourteen days of the issuance of the order.

1 (8) Impose such other conditions as the department deems  
2 appropriate.

3 (b) A person aggrieved by a decision of the department may  
4 appeal the decision of the department to the commission. The  
5 appeal shall be conducted under 2 Pa.C.S. Ch. 5 Subch. A  
6 (relating to practice and procedure of Commonwealth agencies).

7 (c) The department may maintain an action for an injunction  
8 or other process against a person to restrain and prevent the  
9 person from engaging in an activity violating this act.

10 (d) A decision of the commission, or an unappealed order of  
11 the department, shall be a final order of the department and  
12 shall be enforceable in a court of competent jurisdiction. The  
13 department may publish final adjudications issued under this  
14 section, subject to redaction or modification to preserve  
15 confidentiality.

16 (e) A person aggrieved by a decision of the commission may  
17 appeal the decision under 2 Pa.C.S. Ch. 7 Subch. A. (relating to  
18 judicial review of Commonwealth agency action).

19 Section 12. The act is amended by adding sections to read:

20 Section 10.1. Suspension, Revocation or Refusal.--(a) The  
21 department may suspend, revoke or refuse to renew a license  
22 issued under this act if any fact or condition exists or is  
23 discovered which, if it had existed or had been discovered at  
24 the time of filing of the application for the license, would  
25 have warranted the department's refusal to issue the license or  
26 if a licensee or director, officer, partner, employee or owner  
27 of a licensee has:

28 (1) Made a material misstatement in an application or any  
29 report or submission required by this act or any department  
30 regulation, statement of policy or order.

1 (2) Failed to comply with or violated any provision of this  
2 act or any regulation or order promulgated or issued by the  
3 department under this act.

4 (3) Engaged in dishonest, fraudulent or illegal practices or  
5 conduct in a business or unfair or unethical practices or  
6 conduct in connection with the money transmission business.

7 (4) Been convicted of or pleaded guilty or nolo contendere  
8 to a crime of moral turpitude or felony.

9 (5) Permanently or temporarily been enjoined by a court of  
10 competent jurisdiction from engaging in or continuing conduct or  
11 a practice involving an aspect of the money transmission  
12 business.

13 (6) Become the subject of an order of the department or any  
14 other state regulatory agency denying, suspending or revoking a  
15 license.

16 (7) Become the subject of a United States Postal Service  
17 fraud order.

18 (8) Failed to comply with the requirements of this act to  
19 make and keep records prescribed by regulation, statement of  
20 policy or order of the department, to produce records required  
21 by the department or to file financial reports or other  
22 information that the department by regulation, statement of  
23 policy or order may require.

24 (9) Demonstrated negligence or incompetence in performing an  
25 act for which the licensee is required to hold a license.

26 (10) Become insolvent, meaning that the liabilities of the  
27 applicant or licensee exceed the assets of the applicant or  
28 licensee or that the applicant or licensee cannot meet the  
29 obligations of the applicant or licensee as they mature or the  
30 applicant or licensee is in such financial condition that the

1 applicant or licensee cannot continue in business with safety to  
2 the customers of the applicant or licensee.

3 (b) The department may reinstate a license which was  
4 previously suspended, revoked or denied renewal if all of the  
5 following conditions are met:

6 (1) the condition which warranted the original action has  
7 been corrected to the department's satisfaction;

8 (2) the department has reason to believe that the condition  
9 is not likely to occur again; and

10 (3) the licensee satisfies all other requirements of this  
11 act.

12 Section 11.1. Licensee Requirements.--A licensee shall:

13 (1) Operate in a safe and sound manner, ensuring that its  
14 practices and the practices of its agents, if applicable, do not  
15 create the likelihood of material loss, insolvency or  
16 dissipation of assets, or otherwise materially prejudice the  
17 interest of individuals who use the licensee's services to  
18 transmit money.

19 (2) Comply with all applicable Federal or State laws and  
20 rules pertaining to the business of money transmission.

21 (3) Register all of its agents who engage in the business of  
22 money transmission involving individuals who are located in this  
23 Commonwealth.

24 (4) On a date determined by the department, file a report  
25 setting forth such information as the department shall require  
26 concerning the money transmission business conducted by the  
27 licensee. Licensees who fail to file the required report by the  
28 date required by the department may be subject to a penalty of  
29 one hundred dollars (\$100) for each day after the due date until  
30 the report is filed.

1 (5) Provide the department with written notice within ten  
2 days of any change in status, including address, ownership,  
3 directors, officers, contact information and the reason for the  
4 change.

5 (6) Maintain at all times the bond and tangible net worth  
6 required by this act.

7 Section 13. Section 12 of the act is amended to read:

8 Section 12. Agents [and Subagents].--(a) A licensee or  
9 exempted person may conduct [his] business at one or more  
10 locations [within the Commonwealth] through such agents [and  
11 subagents] as [he] the licensee or exempted person may from time  
12 to time appoint. No license [under this act] or any license fee  
13 shall be required of any such agent [or subagent].

14 (b) An agent engaged in the business of money transmission  
15 under subsection (a) or subject to an exemption under section 3  
16 shall be appointed pursuant to a written agreement between the  
17 agent and the person on whose behalf the agent is acting.

18 (c) The written agreement shall contain at least the  
19 following provisions:

20 (1) There is consent by the agent and the person on whose  
21 behalf the agent is acting.

22 (2) The agent is acting on behalf of the person employing  
23 the agent's service for the transmission of money.

24 (3) The agent is subject to the control of the person on  
25 whose behalf the agent is acting, meaning that the licensee or  
26 exempted person takes complete financial responsibility for the  
27 money being transmitted from the moment an individual initiates  
28 the transmission of money until the intended recipient receives  
29 the transmitted money.

30 (4) There is no risk of loss to the individual initiating

1 the transaction if the agent fails to remit the funds to the  
2 person on whose behalf the agent is acting.

3 (5) Receipt of funds by the agent is deemed receipt of funds  
4 by the person on whose behalf the agent is acting.

5 (6) The agent may not provide money transmission outside the  
6 scope of activity permissible under the written agreement  
7 between the agent and the person on whose behalf the agent is  
8 acting except to the extent that the agent is licensed itself or  
9 operating as an agent for another person.

10 (7) Individuals doing business with the agent are aware that  
11 the agent is working on behalf of the person on whose behalf the  
12 agent is acting.

13 Section 14. Sections 13, 13.1, 14 and 15 of the act are  
14 repealed:

15 [Section 13. Hearing and Appeal.--(a) No license shall be  
16 revoked except after a hearing. The Department of Banking shall  
17 hold a hearing when properly requested to do so by an applicant  
18 whose application for a license has been denied. A licensee  
19 whose license is suspended by the Department of Banking shall be  
20 entitled to a hearing. The Department of Banking shall give the  
21 applicant or licensee twenty days' written notice of the time  
22 and place of hearing by registered or certified mail addressed  
23 to the principal place of business of the applicant or licensee.

24 (b) A full and complete record of all hearings shall be  
25 made, and the cost of such record shall be borne by the  
26 applicant or licensee.

27 (c) All adjudications shall be in writing, shall contain  
28 findings and the reason for the adjudication, and shall be  
29 served upon all parties or their counsel personally or by  
30 registered or certified mail.

1 Section 13.1. Injunctions.--If it appears to the Department  
2 of Banking based upon consumer complaints, audits or evaluations  
3 that any person has committed or continues to commit a violation  
4 of any provision of this act or of any rule or order issued by  
5 the department, then the department may apply to the  
6 Commonwealth Court for an order enjoining that person from  
7 violating or continuing to violate this act or any rule or order  
8 and for injunctive or other relief as the nature of the case may  
9 require.

10 Section 14. Rules and Regulations.--The Department of  
11 Banking is hereby authorized to make such rules and regulations  
12 as may be necessary or appropriate for the enforcement of this  
13 act.

14 Section 15. Examinations by the Secretary of Banking.--The  
15 Secretary of Banking, and any person designated by him for that  
16 purpose, shall at least once every two calendar years  
17 investigate the business and affairs and examine the books,  
18 accounts, papers, records, documents, and files of every  
19 licensee and of every person who shall be engaged in business  
20 contemplated by this act. For this purpose the Secretary of  
21 Banking shall have free access to the offices and places of  
22 business, books, accounts, papers, records, documents, files,  
23 safes and vaults of all such persons. A person, who is not  
24 licensed under this act, shall be presumed to be engaged in  
25 business contemplated by this act if he advertises or solicits  
26 business for which a license is required by the provisions of  
27 this act, and the Secretary of Banking, and any person  
28 designated by him for that purpose, is in such cases authorized  
29 to examine the books, accounts, papers, records, documents,  
30 files, safes and vaults of such persons for the purpose of

1 discovering violations of this act. The cost for examinations  
2 shall be paid by the licensee, or a person who is not licensed  
3 under this act but presumed to be engaged in business  
4 contemplated by this act.]

5 Section 15. Section 16 of the act, amended July 2, 1996  
6 (P.L.486, No.79), is amended to read:

7 Section 16. Penalties.--Any person who directly or through  
8 another violates or attempts to violate any provision of this  
9 act shall be guilty of a [misdemeanor] felony, and shall be  
10 fined not less than [two thousand five hundred dollars (\$2,500)]  
11 five thousand dollars (\$5,000), nor more than [five thousand  
12 dollars (\$5,000) or] fifty thousand dollars (\$50,000) and shall  
13 be imprisoned [not less than six months nor more than two] for  
14 not more than seven years in the discretion of the court. Any  
15 person, whether licensed or not licensed under the provisions of  
16 this act, or any director, officer, employee or agent of any  
17 such person, who shall violate the provisions of this act or  
18 shall direct or consent to such violations shall be subject to a  
19 fine levied by the [Department of Banking] department of up to  
20 [two thousand dollars (\$2,000)] ten thousand dollars (\$10,000)  
21 for each offense.

22 Section 16. The amendment, addition or repeal of the title  
23 and sections 1, 2, 3, 3.1, 4, 5, 6, 7, 8, 9, 10, 10.1, 11.1, 12,  
24 13, 13.1, 14, 15 and 16 of the act shall not apply to a  
25 transaction which was conducted prior to the effective date of  
26 this section.

27 Section 17. This act shall take effect in 60 days.