

SENATE BILL 168

By Norris

AN ACT to amend Tennessee Code Annotated, Title 45,
Chapter 7, relative to money transmission.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 45-7-211, is amended by deleting subsections (b), (c), and (d) in their entirety and substituting instead the following language as new, appropriately designated subsections:

(b) Licenses issued or renewed pursuant to this chapter shall expire on December 31. Each license may be renewed for the ensuing twelve-month period upon application by the license holder showing continued compliance with the requirements of § 45-7-205, including the security device adjusted in accordance with § 45-7-208, and the payment of the license renewal fee to the commissioner.

(c) Licenses issued or renewed under the former provisions of this chapter shall instead expire on December 31, 2013.

(d) The licensee must include in its renewal application:

(1) A copy of its most recent audited unconsolidated annual financial statement (including balance sheet, statement of income or loss, statement of changes in shareholder's equity and statement of changes in financial position), except that a licensee may provide the most recent audited consolidated annual financial statement of the parent corporation if the statement separately includes the balance sheet, statement of income or loss, statement of changes in shareholder's equity and statement of changes of financial position of the licensee. A licensee who does not transmit money in this state through more

than an aggregate of four (4) locations may provide a financial statement certified by the owner or manager of the licensee;

(2) For the most recent quarter for which data is available prior to the date of the filing of the renewal application, but in no event more than one hundred twenty (120) days prior to the renewal date, the licensee must provide the number of payment instruments sold by the licensee in the state, the dollar amount of those instruments and the dollar amount of those instruments currently outstanding;

(3) Any material changes to any of the information submitted by the licensee on its original application that have not previously been reported to the commissioner on any other report required to be filed under this part;

(4) A list of the licensee's permissible investments;

(5) A list of the locations within this state at which business regulated by this part is conducted by either the licensee or its authorized agent;

(6) Notification of material litigation or litigation relating to money transmission; and

(7) Other information the commissioner may deem appropriate for the proper enforcement of this part.

(e) Failure to pay the renewal fee or to submit a completed renewal application between November 1 and December 31 shall cause the license to expire at the close of business on December 31.

(f) If an applicant for license renewal under this part was engaged in the business of selling or issuing money orders on April 30, 1995, at not more than four (4) locations, and if the applicant possessed a duly issued license to engage in the business as was required at the time by § 45-7-102, and if the applicant currently engages in the business of money transmission at not more than four (4) locations, then the applicant shall not be required to submit an audited financial statement pursuant to this section.

SECTION 2. Tennessee Code Annotated, Section 45-7-216(b), is amended by deleting the subsection in its entirety and substituting instead the following:

(b) Nothing in this section shall prohibit the commissioner from releasing to the public a list of persons licensed under this part, a list of authorized agents, a list of authorized locations or branches, or from releasing aggregated financial data on licensees and authorized agents.

SECTION 3. Tennessee Code Annotated, Title 45, Chapter 7, Part 2, is amended by adding the following language as a new, appropriately designated section:

45-7-227.

(a) In addition to any other powers imposed upon the commissioner by law, the commissioner is authorized to require persons subject to this chapter to be licensed through a multi-state automated licensing system. Pursuant to this authority, the commissioner may:

(1) Promulgate whatever rules and regulations are reasonably necessary for participation in, transition to or operation of a multi-state automated licensing system;

(2) Establish relationships or enter into agreements that are reasonably necessary for participation in, transition to, or operation of a multi-state automated licensing system. The agreements may include, but are not limited to, operating agreements, information sharing agreements, interstate cooperative agreements, and technology licensing agreements;

(3) Require that applications for licensing under this chapter and renewals of such licenses be filed with a multi-state automated licensing system;

(4) Require that any fees required to be paid under this chapter be paid through a multi-state automated licensing system;

(5) Establish deadlines for transitioning licensees to a multi-state automated licensing system. The Commissioner has the authority to deny any applications or renewal applications not filed with a multi-state automated licensing system after such deadlines have passed, notwithstanding any dates established elsewhere in this chapter. The commissioner shall, however, provide reasonable notice of any transition deadlines to licensees; and

(6) Take such further actions as are reasonably necessary to give effect to this section.

(b) Nothing in this section shall authorize the commissioner to require a person who is not subject to this chapter to submit information to, or to participate in, a multi-state automated licensing system that is operated or participated in pursuant to this chapter.

(c) Notwithstanding any other provision of this section, the commissioner retains full authority and discretion to license persons under this chapter and to enforce this chapter to its fullest extent. Nothing in this section shall be deemed to be a reduction or derogation of that authority and discretion.

(d) Applicants for, and holders of, licenses issued under this chapter shall pay all costs associated with submitting an application to or transitioning a license to a multi-state automated licensing system, as well as all costs required by a multi-state automated licensing system for maintaining and renewing any license issued by the commissioner on a multi-state automated licensing system.

SECTION 4. Tennessee Code Annotated, Title 45, Chapter 7, Part 2, is amended by adding the following language as a new, appropriately designated section:

45-7-228.

The commissioner is authorized to use a multi-state automated licensing system as an agent for channeling information, whether criminal or noncriminal in nature, whether derived from or distributed to the United States Department of Justice or any other state or federal governmental agency, or any other source, that the commissioner is authorized to request or distribute under this chapter.

SECTION 5. Tennessee Code Annotated, Title 45, Chapter 7, Part 2, is amended by adding the following language as a new, appropriately designated section:

45-7-229.

In order to promote more effective regulation and reduce regulatory burden through supervisory information sharing:

(a) The requirements under any federal or state law regarding the privacy or confidentiality of any information or material provided to a multi-state automated licensing system, and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to such information or material, shall continue to apply to the information or material after the information or material has been disclosed to a multi-state automated licensing system. The information or material may be shared with all state and federal regulatory officials with money transmission oversight authority without the loss of privilege or the loss of confidentiality protections provided by federal or state law, including the protection available under § 45-1-120 and § 45-7-216.

(b) For purposes of subsection (a), the commissioner is authorized to enter into agreements or sharing agreements with other governmental agencies, the Conference of State Bank Supervisors or other associations representing governmental agencies as established by rule, regulation or order of the commissioner.

(c) Information or material that is subject to a privilege or confidential under subsection (a) shall not be subject to:

(1) Disclosure under any federal or state law governing the disclosure to the public of information held by an officer or any agency of the federal government or the respective state; or

(2) Subpoena or discovery or admission into evidence in any private civil action or administrative process, unless with respect to any privilege held by a multi-state automated licensing system applicable to such information or material, the person to whom such information or material pertains waives that privilege, in whole or in part, in the discretion of such person.

(d) This section shall supersede any inconsistent provisions of Title 10, Chapter 7, Part 5 pertaining to the records open to public inspection.

(e) This section shall not apply with respect to information or material relating to publicly adjudicated disciplinary and enforcement actions against persons subject to this chapter that is included in a multi-state automated licensing system for access by the public.

SECTION 6. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared severable.

SECTION 7. For the purpose of promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2013, the public welfare requiring it.