

SENATE BILL 774

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II

2002 Regular Session  
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By: **Senator Bromwell**

Introduced and read first time: February 1, 2002

Assigned to: Finance

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Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 14, 2002

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Maryland Money Transmission Act**

3 FOR the purpose of prohibiting a person from engaging in the business of money  
4 transmission unless licensed by the Commissioner of Financial Regulation;  
5 altering the scope of certain provisions of law relating to money transmission;  
6 establishing a certain Money Transmission Fund; specifying certain  
7 qualifications for a licensee; requiring an applicant to provide certain  
8 information, pay certain fees, file certain evidence of a surety device, and  
9 provide fingerprints under certain circumstances; requiring the Commissioner  
10 to investigate and approve or deny each applicant; requiring a licensee to  
11 display a certain consumer protection notice; requiring a surety device to satisfy  
12 certain requirements; imposing certain requirements and restrictions on an  
13 authorized delegate of a licensee; requiring a licensee to file certain notices and  
14 reports with the Commissioner; requiring a licensee to have certain permissible  
15 investments; altering a certain provision to authorize licensees to charge a  
16 certain service fee, not to exceed a certain amount, to certain buyers;  
17 authorizing the Commissioner to investigate certain persons for any violation of  
18 this Act; authorizing the Commissioner to conduct an on-site examination of a  
19 licensee and suspend or revoke a license under certain circumstances;  
20 authorizing the Commissioner to take certain actions to enforce the provisions of  
21 this Act; providing for certain notice and hearing requirements under certain  
22 circumstances; providing certain criminal penalties for a violation of this Act;  
23 establishing a certain short title; defining certain terms; making stylistic  
24 changes; and generally relating to the Maryland Money Transmission Act.

25 BY repealing and reenacting, with amendments,  
26 Article - Financial Institutions  
27 Section 12-401 through 12-411, inclusive, 12-413 through 12-421, inclusive,

1 and 12-423 to be under the amended subtitle "Subtitle 4. Maryland Money  
2 Transmission Act"  
3 Annotated Code of Maryland  
4 (1998 Replacement Volume and 2001 Supplement)

5 BY adding to  
6 Article - Financial Institutions  
7 Section 12-404, 12-408, 12-414, 12-415, 12-417, 12-424, 12-425, 12-427,  
8 12-430, and 12-431  
9 Annotated Code of Maryland  
10 (1998 Replacement Volume and 2001 Supplement)

11 BY repealing  
12 Article - Financial Institutions  
13 Section 12-412, 12-422, and 12-424  
14 Annotated Code of Maryland  
15 (1998 Replacement Volume and 2001 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article - Financial Institutions**

19 Subtitle 4. [Sellers of Money Orders and Traveler's Checks] MARYLAND MONEY  
20 TRANSMISSION ACT.

21 12-401.

22 (a) In this subtitle the following words have the meanings indicated.

23 (B) (1) "ACCELERATED MORTGAGE PAYMENT SERVICE" MEANS THE  
24 SERVICE OF RECEIVING FUNDS FROM A MORTGAGOR FOR THE PURPOSE OF MAKING  
25 MORTGAGE PAYMENTS TO A MORTGAGEE ON BEHALF OF THE MORTGAGOR IN  
26 ORDER TO EXCEED THE REGULARLY SCHEDULED MINIMUM PAYMENT OBLIGATION  
27 UNDER THE TERMS OF THE MORTGAGE.

28 (2) "ACCELERATED MORTGAGE PAYMENT SERVICE" DOES NOT INCLUDE  
29 THE COLLECTION BY A MORTGAGEE OF ACCELERATED PAYMENTS FROM THE  
30 MORTGAGEE'S OWN MORTGAGORS.

31 [(b)] (C) (1) ["Agent"] "AUTHORIZED DELEGATE" means a person who is  
32 authorized by a licensee to [transmit money] ENGAGE IN THE BUSINESS OF MONEY  
33 TRANSMISSION under the name of the licensee at any location other than the place of  
34 business specified in the license.

35 (2) ["Agent"] "AUTHORIZED DELEGATE" does not include a branch office  
36 of a licensee.

1 (D) (1) "BILL PAYER SERVICE" MEANS THE SERVICE OF RECEIVING FUNDS  
2 FROM AN OBLIGOR FOR THE PURPOSE OF PAYING THE OBLIGOR'S BILLS, INVOICES,  
3 MORTGAGES, OR ACCOUNTS.

4 (2) "BILL PAYER SERVICE" DOES NOT INCLUDE THE SERVICE  
5 DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION THAT IS PROVIDED BY A  
6 NONPROFIT ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OF  
7 THE INTERNAL REVENUE CODE.

8 (E) "CONTROL" MEANS:

9 (1) IF THE LICENSEE IS A CORPORATION:

10 (I) THE DIRECT OR INDIRECT OWNERSHIP OF, OR THE RIGHT TO  
11 CONTROL, 25% OR MORE OF THE VOTING SHARES OF THE LICENSEE; OR

12 (II) THE ABILITY TO ELECT A MAJORITY OF THE DIRECTORS OR  
13 OTHERWISE EFFECT A CHANGE IN POLICY OF THE LICENSEE; AND

14 (2) IF THE LICENSEE IS A PERSON OTHER THAN A CORPORATION, THE  
15 POSSESSION, DIRECTLY OR INDIRECTLY, OF THE POWER TO DIRECT OR CAUSE THE  
16 DIRECTION OF THE MANAGEMENT AND POLICIES OF THE LICENSEE, WHETHER  
17 THROUGH OWNERSHIP, BY CONTRACT, OR OTHERWISE.

18 (F) "DEPOSIT IN LIEU OF A SURETY BOND" MEANS AN INVESTMENT IN:

19 (1) CASH;

20 (2) UNLESS FOUND BY THE COMMISSIONER TO BE UNACCEPTABLE, A  
21 CERTIFICATE OF DEPOSIT OR OTHER DEBT OBLIGATION, EXCEPT A CAPITAL NOTE,  
22 OF A STATE-CHARTERED OR FEDERALLY CHARTERED FINANCIAL INSTITUTION,  
23 OTHER-STATE BANK, OR FOREIGN BANK THAT:

24 (I) IS LOCATED IN THIS STATE OR MAINTAINS A BRANCH IN THIS  
25 STATE; AND

26 (II) IS AUTHORIZED TO MAINTAIN DEPOSIT OR SHARE ACCOUNTS;

27 (3) UNLESS FOUND BY THE COMMISSIONER TO BE UNACCEPTABLE:

28 (I) OBLIGATIONS OF OR GUARANTEED BY THE UNITED STATES, ITS  
29 DEPARTMENTS, AGENCIES, OR INSTRUMENTALITIES, OR OBLIGATIONS OF ANY  
30 STATE, TERRITORY, OR MUNICIPALITY OR ANY POLITICAL SUBDIVISION OF ANY  
31 STATE, TERRITORY, OR MUNICIPALITY;

32 (II) ANY INVESTMENT SECURITIES, MONEY MARKET MUTUAL  
33 FUNDS, INTEREST-BEARING BILLS OR NOTES, DEBENTURES, OR STOCK TRADED ON  
34 ANY NATIONAL SECURITIES EXCHANGE OR ON A NATIONAL OVER-THE-COUNTER  
35 MARKET BEARING A RATING OF ONE OF THE THREE HIGHEST GRADES AS DEFINED  
36 BY A NATIONALLY RECOGNIZED ORGANIZATION THAT RATES SUCH SECURITIES; AND

1 (III) ANY DEMAND BORROWING AGREEMENT OR AGREEMENTS IN  
2 AN AMOUNT OR AGGREGATE AMOUNT WHICH DOES NOT EXCEED 10% OF THE NET  
3 WORTH OF THE COMPANY LIABLE FOR PAYMENT UNDER THE AGREEMENT OR  
4 AGREEMENTS AS SHOWN ON FINANCIAL STATEMENTS CERTIFIED BY A CERTIFIED  
5 PUBLIC ACCOUNTANT ACCEPTABLE TO THE COMMISSIONER, PROVIDED THAT THE  
6 COMPANY IS A CORPORATION OR A SUBSIDIARY OF A CORPORATION WHOSE CAPITAL  
7 STOCK IS LISTED ON A NATIONAL EXCHANGE AND IS NOT A LICENSEE OR  
8 AUTHORIZED DELEGATE OF A LICENSEE UNDER THIS SUBTITLE; OR

9 (4) ANY OTHER INVESTMENT THAT THE COMMISSIONER APPROVES.

10 (G) "EXECUTIVE OFFICER" MEANS A PRESIDENT, VICE PRESIDENT, SENIOR  
11 OFFICER RESPONSIBLE FOR BUSINESS OPERATIONS, CHIEF FINANCIAL OFFICER, OR  
12 ANY OTHER INDIVIDUAL WHO PERFORMS SIMILAR FUNCTIONS.

13 (H) "KEY SHAREHOLDER" MEANS ANY PERSON, OR GROUP OF PERSONS  
14 ACTING IN CONCERT, THAT IS THE OWNER OF 25% OR MORE OF ANY CLASS OF  
15 VOTING STOCK.

16 [(c)] (I) "License" means a license issued by the Commissioner under this  
17 subtitle to [transmit money] ENGAGE IN THE BUSINESS OF MONEY TRANSMISSION.

18 (J) "MATERIAL LITIGATION" MEANS LITIGATION THAT ACCORDING TO  
19 GENERALLY ACCEPTED ACCOUNTING PRINCIPLES:

20 (1) IS DEEMED SIGNIFICANT TO AN APPLICANT'S OR LICENSEE'S  
21 FINANCIAL HEALTH; AND

22 (2) WOULD BE REQUIRED TO BE REFERENCED IN THE APPLICANT'S OR  
23 LICENSEE'S ANNUAL AUDITED FINANCIAL STATEMENTS, REPORT TO  
24 SHAREHOLDERS, OR SIMILAR DOCUMENT.

25 (K) "MONETARY VALUE" MEANS A MEDIUM OF EXCHANGE WHETHER OR NOT  
26 REDEEMABLE IN MONEY.

27 [(d)] (L) (1) "Money transmission" means [the sale or issuance of] THE  
28 BUSINESS OF SELLING OR ISSUING payment instruments OR STORED VALUE  
29 DEVICES, OR RECEIVING MONEY OR MONETARY VALUE, FOR TRANSMISSION TO A  
30 LOCATION WITHIN OR OUTSIDE THE UNITED STATES BY ANY MEANS, [or engaging in  
31 the business of receiving money for transmission or transmitting money within the  
32 United States or to locations abroad by any means, including payment instruments,  
33 wire, facsimile, or electronic transfer] INCLUDING ELECTRONICALLY OR THROUGH  
34 THE INTERNET.

35 (2) "MONEY TRANSMISSION" INCLUDES:

36 (I) A BILL PAYER SERVICE;

37 (II) AN ACCELERATED MORTGAGE PAYMENT SERVICE; AND

1 (III) ANY INFORMAL MONEY TRANSFER SYSTEM ENGAGED IN AS A  
2 BUSINESS FOR, OR NETWORK OF PERSONS WHO ENGAGE AS A BUSINESS IN,  
3 FACILITATING THE TRANSFER OF MONEY OUTSIDE THE CONVENTIONAL FINANCIAL  
4 INSTITUTIONS SYSTEM TO A LOCATION WITHIN OR OUTSIDE THE UNITED STATES.

5 [(e)] (M) "Outstanding PAYMENT INSTRUMENT" [means sold in the United  
6 States and reported to the licensee as not yet paid or transmitted.] MEANS A  
7 PAYMENT INSTRUMENT THAT HAS BEEN SOLD OR ISSUED IN THE UNITED STATES  
8 DIRECTLY BY A LICENSEE OR AN AUTHORIZED DELEGATE OF A LICENSEE THAT HAS  
9 BEEN REPORTED AS NOT YET PAID BY OR FOR THE LICENSEE.

10 [(f)] (N) (1) "Payment instrument" means any ELECTRONIC OR WRITTEN  
11 check, draft, money order, traveler's check, or other ELECTRONIC OR WRITTEN  
12 instrument or [written] order for the transmission OR PAYMENT of money, sold or  
13 issued to one or more persons, whether or not [such] THE instrument is negotiable.

14 (2) "PAYMENT INSTRUMENT" [The term "payment instrument"] does not  
15 include any credit card voucher, letter of credit, or [instrument] TANGIBLE OBJECT  
16 redeemable by the issuer in goods or services.

17 [(g)] (O) "Permissible investment" means:

18 (1) Cash;

19 (2) UNLESS FOUND BY THE COMMISSIONER TO BE UNACCEPTABLE, A  
20 CERTIFICATE OF DEPOSIT OR OTHER DEBT OBLIGATION, EXCEPT A CAPITAL NOTE,  
21 OF A STATE-CHARTERED OR FEDERALLY CHARTERED FINANCIAL INSTITUTION,  
22 OTHER-STATE BANK, OR FOREIGN BANK THAT:

23 (I) IS LOCATED IN THIS STATE OR MAINTAINS A BRANCH IN THIS  
24 STATE; AND

25 (II) IS AUTHORIZED TO MAINTAIN DEPOSIT OR SHARE ACCOUNTS  
26 [A certificate of deposit or other debt instrument of a banking institution, except a  
27 capital note];

28 (3) Unless found by the Commissioner to be unacceptable:

29 (i) [A banker's acceptance if the draft is drawn on and accepted by  
30 a banking institution and is eligible for purchase by a member bank of the Federal  
31 Reserve System;

32 (ii) Obligations of or obligations guaranteed by the United States,  
33 any state, or any of their agencies or instrumentalities;] OBLIGATIONS OF OR  
34 GUARANTEED BY THE UNITED STATES, ITS DEPARTMENTS, AGENCIES, OR  
35 INSTRUMENTALITIES, OR OBLIGATIONS OF ANY STATE, TERRITORY, OR  
36 MUNICIPALITY OR ANY POLITICAL SUBDIVISION OF ANY STATE, TERRITORY, OR  
37 MUNICIPALITY;

1 [(iii)] (II) [A bill, note, bond, debenture, or preferred stock that is  
2 traded on a national over-the-counter market or exchange] ANY INVESTMENT  
3 SECURITIES, MONEY MARKET MUTUAL FUND, INTEREST-BEARING BILLS OR NOTES,  
4 DEBENTURES OR STOCK TRADED ON ANY NATIONAL SECURITIES EXCHANGE OR ON  
5 A NATIONAL OVER-THE-COUNTER MARKET BEARING A RATING OF ONE OF THE  
6 THREE HIGHEST GRADES AS DEFINED BY A NATIONALLY RECOGNIZED  
7 ORGANIZATION THAT RATES SUCH SECURITIES; AND

8 [(iv)] Commercial paper of prime quality as defined by a nationally  
9 recognized organization that rates securities; and

10 [(v)] (III) Any demand borrowing agreement or agreements in an  
11 amount or aggregate amount which does not exceed [10 percent] 10% of the net worth  
12 of the company liable for payment under the agreement [thereof] OR AGREEMENTS  
13 as shown on financial statements certified by a certified public accountant acceptable  
14 to the Commissioner, [which] PROVIDED THAT THE company is a corporation or a  
15 subsidiary of a corporation whose capital stock is listed on a national exchange and is  
16 not a licensee or [agent] AUTHORIZED DELEGATE OF a licensee under this subtitle.  
17 [The borrowing agreements shall be filed with the Commissioner in addition to  
18 quarterly financial statements and any other financial information as the  
19 Commissioner may deem necessary]; [and]

20 (4) RECEIVABLES THAT ARE DUE TO A LICENSEE FROM ITS  
21 AUTHORIZED DELEGATES UNDER A CONTRACT DESCRIBED IN § 12-413 OF THIS  
22 SUBTITLE THAT ARE NOT PAST DUE OR DOUBTFUL OF COLLECTION; OR

23 [(4)] (5) Any other investment that the Commissioner approves.

24 (P) (1) "STORED VALUE DEVICE" MEANS A CARD OR OTHER TANGIBLE  
25 OBJECT USED FOR THE TRANSMISSION OR PAYMENT OF MONEY:

26 (I) THAT CONTAINS A MICROPROCESSOR CHIP, MAGNETIC STRIPE,  
27 OR OTHER MEANS FOR THE STORAGE OF INFORMATION;

28 (II) THAT IS PREFUNDED; AND

29 (III) THE VALUE OF WHICH IS REDUCED AFTER EACH USE.

30 (2) "STORED VALUE DEVICE" DOES NOT INCLUDE ANY TANGIBLE  
31 OBJECT THE VALUE OF WHICH IS REDEEMABLE ONLY IN THE ISSUER'S GOODS OR  
32 SERVICES.

33 (Q) "SURETY DEVICE" MEANS:

34 (1) A SURETY BOND; OR

35 (2) A DEPOSIT IN LIEU OF A SURETY BOND.

1 12-402.

2 (a) The ~~licensing~~ provisions of this subtitle do not apply to:

3 (1) Any banking institution;

4 (2) ANY OTHER-STATE BANK;

5 [(2)] (3) Any national banking association;

6 [(3)] (4) Any credit union;

7 [(4)] (5) Any savings and loan association;

8 [(5)] (6) The United States government or any of its departments, [or]  
9 agencies, OR INSTRUMENTALITIES;

10 [(6)] (7) The sale of payment instruments by any person on behalf of any  
11 other person who is exempted by this subsection, if the payment instruments were  
12 received from the other person under a trust receipt for the specific purpose of sale;

13 [(7)] (8) [Any other-state bank having a branch in this State;] THE  
14 PROVISION OF ELECTRONIC TRANSFER OF GOVERNMENT BENEFITS FOR ANY  
15 FEDERAL, STATE, OR COUNTY GOVERNMENTAL AGENCY AS DEFINED IN FEDERAL  
16 RESERVE BOARD REGULATION E, BY A CONTRACTOR FOR AND ON BEHALF OF THE  
17 UNITED STATES OR ANY OF ITS DEPARTMENTS, AGENCIES, OR INSTRUMENTALITIES,  
18 OR ANY STATE OR ANY POLITICAL SUBDIVISION OF ANY STATE; or

19 [(8)] (9) Any [agent] AUTHORIZED DELEGATE of a licensee, acting  
20 within the scope of authority conferred by a written contract as described in § 12-413  
21 OF this subtitle.

22 (b) Any person who is exempted by this section nevertheless may apply for  
23 and, if qualified, receive a license.

24 12-403.

25 [The Commissioner may] TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE,  
26 THE COMMISSIONER MAY:

27 (1) [adopt] ADOPT rules and regulations [to carry out the provisions of  
28 this subtitle.];

29 (2) ENTER INTO COOPERATIVE AND INFORMATION SHARING  
30 AGREEMENTS WITH ANY FEDERAL OR STATE AGENCY HAVING SUPERVISORY  
31 RESPONSIBILITY OVER THE BUSINESS OF MONEY TRANSMISSION; AND

32 (3) PROVIDE ANY FEDERAL OR STATE AGENCY HAVING SUPERVISORY  
33 RESPONSIBILITY OVER MONEY TRANSMISSION WITH ANY DOCUMENTS OR OTHER  
34 INFORMATION.

1 12-404.

2 (A) IN THIS SECTION, "FUND" MEANS THE MONEY TRANSMISSION FUND  
3 ESTABLISHED UNDER THIS SECTION.

4 (B) THERE IS A MONEY TRANSMISSION FUND THAT CONSISTS OF:

5 (1) ALL REVENUE RECEIVED FOR THE LICENSING OF PERSONS WHO  
6 ENGAGE IN THE BUSINESS OF MONEY TRANSMISSION UNDER THIS SUBTITLE;

7 (2) INCOME FROM THE INVESTMENTS THAT THE STATE TREASURER  
8 MAKES FOR THE FUND; AND

9 (3) ANY OTHER FEE, EXAMINATION ASSESSMENT, OR REVENUE  
10 RECEIVED BY THE COMMISSIONER UNDER THIS SUBTITLE.

11 (C) NOTWITHSTANDING SUBSECTION (B) OF THIS SECTION, THE  
12 COMMISSIONER SHALL PAY ALL FINES AND PENALTIES COLLECTED BY THE  
13 COMMISSIONER UNDER THIS SUBTITLE INTO THE GENERAL FUND OF THE STATE.

14 (D) THE PURPOSE OF THE FUND IS TO PAY ALL THE COSTS AND EXPENSES  
15 INCURRED BY THE COMMISSIONER THAT ARE RELATED TO THE REGULATION OF THE  
16 BUSINESS OF MONEY TRANSMISSION UNDER THIS SUBTITLE, INCLUDING:

17 (1) EXPENDITURES AUTHORIZED UNDER THIS SUBTITLE; AND

18 (2) ANY OTHER EXPENSE AUTHORIZED IN THE STATE BUDGET.

19 (E) (1) ALL THE COSTS AND EXPENSES OF THE COMMISSIONER RELATING  
20 TO THE REGULATION OF THE BUSINESS OF MONEY TRANSMISSION UNDER THIS  
21 SUBTITLE SHALL BE INCLUDED IN THE STATE BUDGET.

22 (2) ANY EXPENDITURES FROM THE FUND TO COVER COSTS AND  
23 EXPENSES OF THE COMMISSIONER MAY BE MADE ONLY:

24 (I) WITH AN APPROPRIATION FROM THE FUND APPROVED BY THE  
25 GENERAL ASSEMBLY IN THE ANNUAL STATE BUDGET; OR

26 (II) BY THE BUDGET AMENDMENT PROCEDURE PROVIDED FOR IN §  
27 7-209 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

28 (3) IF, IN ANY GIVEN FISCAL YEAR, THE AMOUNT OF THE REVENUE  
29 COLLECTED BY THE COMMISSIONER AND DEPOSITED INTO THE FUND EXCEEDS THE  
30 ACTUAL APPROPRIATION FOR THE COMMISSIONER TO REGULATE THE BUSINESS OF  
31 MONEY TRANSMISSION UNDER THIS SUBTITLE, THE EXCESS AMOUNT SHALL BE  
32 CARRIED FORWARD WITHIN THE FUND.

33 (F) (1) THE STATE TREASURER IS THE CUSTODIAN OF THE FUND.

34 (2) THE STATE TREASURER SHALL DEPOSIT PAYMENTS RECEIVED FROM  
35 THE COMMISSIONER INTO THE FUND.

1 (G) (1) THE FUND IS A CONTINUING, NONLAPSING FUND AND IS NOT  
2 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, AND MAY  
3 NOT BE DEEMED A PART OF THE GENERAL FUND OF THE STATE.

4 (2) UNLESS OTHERWISE PROVIDED BY LAW, NO PART OF THE FUND MAY  
5 REVERT OR BE CREDITED TO:

6 (I) THE GENERAL FUND OF THE STATE; OR

7 (II) A SPECIAL FUND OF THE STATE.

8 [12-404.] 12-405.

9 A person may not engage in the business of [transmitting money] MONEY  
10 TRANSMISSION IF THAT PERSON, OR THE PERSON WITH WHOM THAT PERSON  
11 ENGAGES IN THE BUSINESS OF MONEY TRANSMISSION, IS LOCATED IN THE STATE  
12 unless [the] THAT person:

13 (1) Is licensed by the Commissioner;

14 (2) Is an [agent] AUTHORIZED DELEGATE of a licensee under whose  
15 name the BUSINESS OF money [is transmitted] TRANSMISSION OCCURS; or

16 (3) Is a person exempted from licensing under this subtitle.

17 [12-405.] 12-406.

18 (A) To qualify for a license, an applicant shall satisfy the Commissioner that  
19 the applicant:

20 [(1) Is trustworthy and reputable;

21 (2) Has a good business reputation;

22 (3) Has sufficient business experience;

23 (4) Will keep at all times the permissible investments required under §  
24 12-414 of this subtitle; and

25 (5) Has a net worth of at least \$100,000, computed according to generally  
26 accepted accounting principles.]

27 (1) IS OF GOOD MORAL CHARACTER AND HAS SUFFICIENT FINANCIAL  
28 RESPONSIBILITY, BUSINESS EXPERIENCE, AND GENERAL FITNESS TO:

29 (I) ENGAGE IN THE BUSINESS OF MONEY TRANSMISSION;

30 (II) WARRANT THE BELIEF THAT THE BUSINESS OF MONEY  
31 TRANSMISSION WILL BE CONDUCTED LAWFULLY, HONESTLY, FAIRLY, AND  
32 EFFICIENTLY; AND

1 (III) COMMAND THE CONFIDENCE OF THE PUBLIC;

2 (2) WILL KEEP AT ALL TIMES THE PERMISSIBLE INVESTMENTS  
3 REQUIRED UNDER § 12-418 OF THIS SUBTITLE;

4 (3) HAS A NET WORTH COMPUTED ACCORDING TO GENERALLY  
5 ACCEPTED ACCOUNTING PRINCIPLES OF AT LEAST \$150,000, PLUS AN ADDITIONAL  
6 NET WORTH OF \$10,000 FOR EACH ADDITIONAL LOCATION OR AUTHORIZED  
7 DELEGATE, UP TO A MAXIMUM OF \$500,000 AS PROVIDED IN SUBSECTION (B) OF THIS  
8 SECTION; AND

9 (4) HAS AT LEAST 3 YEARS OF EXPERIENCE IN THE BUSINESS OF MONEY  
10 TRANSMISSION OR OTHER RELATED FINANCIAL SERVICES BUSINESS UNDER THE  
11 FOLLOWING CONDITIONS:

12 (I) IF THE APPLICANT IS A SOLE PROPRIETOR, THE APPLICANT  
13 SHALL HAVE THE REQUIRED EXPERIENCE;

14 (II) IF THE APPLICANT IS A JOINT VENTURE OR PARTNERSHIP, AT  
15 LEAST ONE OF THE COVENTURERS OR GENERAL PARTNERS SHALL HAVE THE  
16 REQUIRED EXPERIENCE; AND

17 (III) IF THE APPLICANT IS ANY OTHER TYPE OF BUSINESS, AT LEAST  
18 ONE OF THE PRINCIPAL OFFICERS OR MEMBERS SHALL HAVE THE REQUIRED  
19 EXPERIENCE.

20 (B) THE COMMISSIONER MAY REQUIRE A NET WORTH OF UP TO \$500,000,  
21 SUBJECT TO CONSIDERATION OF THE FOLLOWING:

22 (1) THE NATURE AND VOLUME OF THE BUSINESS OR PROPOSED  
23 BUSINESS OF THE APPLICANT;

24 (2) THE AMOUNT, NATURE, QUALITY, AND LIQUIDITY OF THE ASSETS OF  
25 THE APPLICANT;

26 (3) THE AMOUNT AND NATURE OF THE LIABILITIES, INCLUDING  
27 CONTINGENT LIABILITIES, OF THE APPLICANT;

28 (4) THE HISTORY OF, AND PROSPECTS FOR, THE APPLICANT TO EARN  
29 AND RETAIN INCOME;

30 (5) THE QUALITY OF THE OPERATIONS OF THE APPLICANT;

31 (6) THE QUALITY OF THE MANAGEMENT OF THE APPLICANT;

32 (7) THE NATURE AND QUALITY OF THE PERSON THAT HAS CONTROL OF  
33 THE APPLICANT; AND

34 (8) ANY OTHER FACTOR THE COMMISSIONER DEEMS RELEVANT.

1 [12-406.] 12-407.

2 (a) [(1)] To apply for a license, an applicant shall [sign] COMPLETE and  
3 submit to the Commissioner [a verified] AN application MADE UNDER OATH [in] ON  
4 the form that the Commissioner requires.

5 [(2)] The application shall include:

6 (i) The applicant's name, business address, and, if the applicant is  
7 an individual, residence address;

8 (ii) If the applicant is a corporation or association, the name and  
9 business address of each of its officers and directors;

10 (iii) If the applicant is an unincorporated entity with less than 100  
11 members or a partnership, the name and business address of each of its members;

12 (iv) The address at which the business is to be conducted; and

13 (v) The name, business address, and nature of business of each  
14 agent who is authorized to do business on behalf of the applicant.

15 (b) (1) With the application, the applicant shall submit the most recent  
16 unconsolidated financial statement of the applicant.

17 (2) The statement shall:

18 (i) Be prepared in accordance with generally accepted accounting  
19 principles applied on a consistent basis;

20 (ii) Be audited and certified by an independent certified public  
21 accountant; and

22 (iii) Include a schedule of all of the permissible investments of the  
23 applicant.]

24 (B) AN APPLICANT SHALL PROVIDE:

25 (1) THE TRADE NAME OF THE APPLICANT, AS FILED WITH THE STATE  
26 DEPARTMENT OF ASSESSMENTS AND TAXATION UNDER § 1-406 OF THE  
27 CORPORATIONS AND ASSOCIATIONS ARTICLE, AND ANY FICTITIOUS OR OTHER NAME  
28 USED BY THE APPLICANT IN THE CONDUCT OF THE APPLICANT'S BUSINESS;

29 (2) THE ADDRESS AT WHICH THE APPLICANT'S BUSINESS IS TO BE  
30 CONDUCTED AND THE ADDRESS OF THE HEADQUARTERS OF THE BUSINESS;

31 (3) THE NAME, BUSINESS ADDRESS, AND NATURE OF THE BUSINESS OF  
32 EACH AUTHORIZED DELEGATE TO BE APPOINTED BY THE APPLICANT;

33 (4) THE MOST RECENT UNCONSOLIDATED FINANCIAL STATEMENT OF  
34 THE APPLICANT THAT SHALL:

1 (I) BE PREPARED IN ACCORDANCE WITH GENERALLY ACCEPTED  
2 ACCOUNTING PRINCIPLES APPLIED ON A CONSISTENT BASIS;

3 (II) BE A CERTIFIED OPINION AUDIT PREPARED BY AN  
4 INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT;

5 (III) INCLUDE A SCHEDULE OF ALL PERMISSIBLE INVESTMENTS, IF  
6 ANY, OF THE APPLICANT; AND

7 (IV) BE NO OLDER THAN 12 MONTHS BEFORE THE DATE OF THE  
8 APPLICATION;

9 (5) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE  
10 APPLICANT'S RESIDENT AGENT IN THE STATE;

11 (6) A HISTORY OF MATERIAL LITIGATION AGAINST THE APPLICANT, IF  
12 ANY, FOR THE PAST 3 YEARS; AND

13 (7) ANY OTHER INFORMATION THAT THE COMMISSIONER REASONABLY  
14 REQUIRES.

15 (C) IF THE APPLICANT IS A SOLE PROPRIETORSHIP, THE APPLICANT ALSO  
16 SHALL PROVIDE:

17 (1) THE APPLICANT'S RESIDENCE ADDRESS, TELEPHONE NUMBER, AND  
18 ELECTRONIC MAIL ADDRESS; AND

19 (2) THE APPLICANT'S CREDIT REPORT THAT IS NO OLDER THAN 3  
20 MONTHS BEFORE THE DATE OF THE APPLICATION.

21 (D) IF THE APPLICANT IS A JOINT VENTURE OR PARTNERSHIP, THE  
22 APPLICANT ALSO SHALL PROVIDE:

23 (1) THE RESIDENCE ADDRESS, TELEPHONE NUMBER, AND ELECTRONIC  
24 MAIL ADDRESS OF EACH COVENTURER OR GENERAL PARTNER;

25 (2) AN INDIVIDUAL CREDIT REPORT FOR ALL COVENTURERS OR  
26 GENERAL PARTNERS THAT IS NO OLDER THAN 3 MONTHS BEFORE THE DATE OF  
27 APPLICATION; AND

28 (3) A COPY OF ALL JOINT VENTURE OR PARTNERSHIP AGREEMENTS FOR  
29 THE APPLICANT.

30 (E) IF THE APPLICANT IS A CORPORATION OR LIMITED LIABILITY COMPANY,  
31 THE APPLICANT ALSO SHALL PROVIDE:

32 (1) THE NAME, BUSINESS TELEPHONE NUMBER, ELECTRONIC MAIL  
33 ADDRESS, AND THE RESIDENCE ADDRESS AND TELEPHONE NUMBER OF THE  
34 EXECUTIVE OFFICERS, DIRECTORS, AND ALL KEY SHAREHOLDERS OR MEMBERS;

1 (2) A BUSINESS CREDIT REPORT FOR THE APPLICANT THAT IS NO OLDER  
2 THAN 3 MONTHS BEFORE THE DATE OF APPLICATION;

3 (3) CERTIFIED COPIES OF THE APPLICANT'S ARTICLES OF  
4 INCORPORATION OR ARTICLES OF ORGANIZATION AND BYLAWS OR OPERATING  
5 AGREEMENT WITH ALL AMENDMENTS; AND

6 (4) A CERTIFICATE OF GOOD STANDING FROM THE STATE IN WHICH THE  
7 APPLICANT IS INCORPORATED OR ORGANIZED.

8 [(c)] (F) With the application, the applicant shall pay to the Commissioner:

9 (1) An investigation fee of [\$500] \$1,000; and

10 (2) A license fee of either:

11 (i) [\$400] \$4,000 if the applicant applies for the license on or after  
12 January 1 and on or before December 31 of an even-numbered year; OR

13 (ii) [Effective January 1, 1999, \$200] \$2,000 if the applicant applies  
14 for the license on or after January 1 and on or before December 31 of an  
15 odd-numbered year.[]; or

16 (iii) \$400 if the applicant applies for the license on or after October  
17 1, 1997 and on or before December 31, 1997.]

18 [(d)] (G) With the application, the applicant shall file EVIDENCE OF a surety  
19 [bond or deposit permissible investments] DEVICE with the Commissioner as  
20 provided in [§ 12-410] § 12-412 of this subtitle.

21 [(e)] (H) (1) For each license for which an applicant applies, the applicant  
22 shall:

23 (i) Submit a separate application; AND

24 (ii) [Submit a separate financial statement; and

25 (iii)] Pay a separate license fee.

26 (2) If an applicant has or is applying for more than one license, the  
27 applicant may comply with subsection [(d)] (G) of this section by filing EVIDENCE OF  
28 only one [bond or depositing only one set of permissible investments] SURETY  
29 DEVICE.

30 (3) If an applicant has or is applying for more than one license, the  
31 applicant is not required to [file] PAY a separate investigation fee.

32 12-408.

33 (A) THIS SECTION DOES NOT APPLY TO ANY CORPORATION THE SECURITIES  
34 OF WHICH ARE EXEMPT FROM REGISTRATION UNDER § 11-601 (8) OR (12) OF THE

1 CORPORATIONS AND ASSOCIATIONS ARTICLE OR ANY WHOLLY OWNED SUBSIDIARY  
2 OF THE CORPORATION.

3 (B) IN CONNECTION WITH AN INITIAL APPLICATION, A RENEWAL  
4 APPLICATION, A SPECIAL INVESTIGATION, AND AT ANY OTHER TIME THE  
5 COMMISSIONER REQUESTS, AN APPLICANT OR LICENSEE SHALL PROVIDE  
6 FINGERPRINTS FOR USE BY THE FEDERAL BUREAU OF INVESTIGATION AND THE  
7 MARYLAND CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF  
8 THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES TO CONDUCT  
9 CRIMINAL HISTORY RECORDS CHECKS.

10 (C) AN APPLICANT OR LICENSEE REQUIRED UNDER THIS SECTION TO  
11 PROVIDE FINGERPRINTS SHALL PAY ANY PROCESSING FEE REQUIRED BY THE  
12 FEDERAL BUREAU OF INVESTIGATION OR THE MARYLAND CRIMINAL JUSTICE  
13 INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC  
14 SAFETY AND CORRECTIONAL SERVICES.

15 (D) IF THE APPLICANT OR LICENSEE IS A CORPORATION, THE  
16 FINGERPRINTING AND CRIMINAL HISTORY RECORDS CHECK REQUIREMENTS SHALL  
17 APPLY TO THE PRESIDENT AND ANY OTHER EXECUTIVE OFFICER OF THE  
18 CORPORATION AS REQUESTED BY THE COMMISSIONER.

19 [12-407.] 12-409.

20 (a) [When an applicant for a license files the application and financial  
21 statement, files a bond or deposits permissible investments, and pays the fees  
22 required by § 12-406 of this subtitle, the Commissioner shall investigate to determine  
23 if the applicant meets the requirements of this subtitle for a license.] AFTER THE  
24 FILING OF A COMPLETE APPLICATION, THE COMMISSIONER SHALL INVESTIGATE  
25 THE FINANCIAL CONDITION AND RESPONSIBILITY, FINANCIAL AND BUSINESS  
26 EXPERIENCE, CHARACTER, AND GENERAL FITNESS OF THE APPLICANT.

27 (b) (1) [THE] UNLESS THE COMMISSIONER NOTIFIES THE APPLICANT THAT  
28 A DIFFERENT TIME PERIOD IS NECESSARY, THE Commissioner shall approve or deny  
29 each application for a license within 60 days after the date [when the application and  
30 financial statement is filed, the bond is filed or permissible investments are  
31 deposited, and the fees are paid] A COMPLETE APPLICATION IS FILED.

32 (2) SUBJECT TO THE PROVISIONS OF PARAGRAPH (3) OF THIS  
33 SUBSECTION, THE APPLICANT MAY BY WRITTEN REQUEST TO THE COMMISSIONER  
34 WITHDRAW THE APPLICATION AT ANY TIME BEFORE THE ISSUANCE OF THE  
35 LICENSE.

36 (3) (I) IF THE APPLICATION IS WITHDRAWN 30 DAYS OR LESS AFTER  
37 THE DATE OF APPLICATION, THE COMMISSIONER SHALL REFUND THE  
38 INVESTIGATION FEE AND LICENSE FEE.

39 (II) IF THE APPLICATION IS WITHDRAWN MORE THAN 30 DAYS  
40 AFTER THE DATE OF APPLICATION, THE COMMISSIONER SHALL KEEP THE  
41 INVESTIGATION FEE AND RETURN THE LICENSE FEE.

1 (c) The Commissioner shall issue a license to any applicant who meets the  
2 requirements of this subtitle.

3 (d) (1) If an applicant does not meet the requirements of this subtitle, the  
4 Commissioner shall:

5 (i) Notify the applicant immediately of this fact;

6 (ii) Subject to the hearing provisions of [§ 12-421] § 12-428 of this  
7 subtitle, deny the application;

8 (iii) Return the [bond] SURETY DEVICE filed [or permissible  
9 investments deposited] under [§ 12-406] § 12-407 of this subtitle;

10 (iv) Refund the license [and agent fees] FEE; and

11 (v) Keep the investigation fee.

12 (2) Within 30 days after the Commissioner denies an application, the  
13 Commissioner shall [:] STATE THE REASONS FOR THE DENIAL IN WRITING AND MAIL  
14 THEM TO THE ADDRESS LISTED IN THE APPLICATION.

15 (i) File in the Commissioner's office a written order of the denial;

16 (ii) Mail a copy of the order to the applicant at the address given on  
17 the application; and

18 (iii) Return the bond filed or permissible investments deposited  
19 under § 12-406 of this subtitle.]

20 [12-408.] 12-410.

21 (a) The Commissioner shall include on each license:

22 (1) The TRADE name of the licensee; and

23 (2) The address at which the business is to be conducted.

24 (b) (1) A license authorizes the licensee to do business under the license, at  
25 the licensed place of business.

26 (2) A license does not authorize the licensee to accept deposits or engage  
27 otherwise in a banking business except as authorized in this subtitle.

28 (3) Only one place of business may be maintained under any one license.

29 (c) The Commissioner may issue more than one license to an applicant who:

30 (1) Complies with [§12-406] § 12-407 of this subtitle; and

31 (2) Otherwise meets the requirements of this subtitle.

1 (D) A LICENSE MAY NOT BE TRANSFERRED OR ASSIGNED.

2 (E) (1) (I) IF THE LICENSEE HAS ITS HEADQUARTERS IN THE STATE, THE  
3 LICENSEE SHALL PROMINENTLY DISPLAY THE LICENSE IN THE LOCATION THAT IS  
4 OPEN TO THE PUBLIC AND AT WHICH THE LICENSEE ENGAGES IN THE BUSINESS OF  
5 MONEY TRANSMISSION.

6 (II) IF THE LICENSEE HAS ITS HEADQUARTERS OUTSIDE THE  
7 STATE, THE LICENSEE SHALL MAINTAIN THE LICENSE IN THE HEADQUARTERS.

8 (2) EACH AUTHORIZED DELEGATE SHALL DISPLAY PROMINENTLY AT  
9 EACH LOCATION OPEN TO THE PUBLIC A NOTICE IN AT LEAST 48-POINT TYPE THAT  
10 STATES THE FOLLOWING:

11 "THE COMMISSIONER OF FINANCIAL REGULATION FOR THE STATE OF  
12 MARYLAND WILL ACCEPT ALL QUESTIONS OR COMPLAINTS REGARDING THIS  
13 AUTHORIZED DELEGATE OF (NAME OF LICENSEE) AT (ADDRESS OF COMMISSIONER),  
14 PHONE (TOLL-FREE PHONE NUMBER OF THE COMMISSIONER)".

15 (3) A LICENSEE THAT OFFERS INTERNET MONEY TRANSMISSION  
16 SERVICES SHALL INCLUDE THE FOLLOWING NOTICE ON ITS WEB SITE:

17 "THE COMMISSIONER OF FINANCIAL REGULATION FOR THE STATE OF  
18 MARYLAND WILL ACCEPT ALL QUESTIONS OR COMPLAINTS FROM MARYLAND  
19 RESIDENTS REGARDING (NAME OF LICENSEE) AT (ADDRESS OF COMMISSIONER),  
20 PHONE (TOLL-FREE PHONE NUMBER OF THE COMMISSIONER)".

21 [12-409.] 12-411.

22 (a) [(1)] A license issued [on or before September 30, 1997] UNDER THIS  
23 SUBTITLE expires on December 31 of [the year in which it was issued,] EACH ODD-  
24 NUMBERED YEAR unless it is renewed for a 2-year term as provided in SUBSECTION  
25 (B) OF this section.

26 [(2)] A license issued on or after October 1, 1997 expires on December 31  
27 in each odd-numbered year after December 31, 1997, unless it is renewed for a  
28 2-year term as provided in this section.]

29 (b) On or before December 1 of the year of expiration, a license may be  
30 renewed for [an additional 2 years] A 2-YEAR TERM, if the licensee:

31 (1) Otherwise is entitled to be licensed;

32 (2) Files [any bond renewal certificate or new bond or deposits any new  
33 permissible investments] EVIDENCE OF A SURETY DEVICE required [by § 12-410]  
34 UNDER § 12-412 of this subtitle;

35 (3) Pays to the Commissioner a [license] RENEWAL fee of [\$400] \$4,000;  
36 and

1 (4) Submits to the Commissioner:

2 (i) A renewal application on the form that the Commissioner  
3 requires; and

4 (ii) A financial statement that complies with the requirements of [§  
5 12-406(b)(2)] § 12-407(B)(4) of this subtitle.

6 [12-410.] 12-412.

7 (A) IN THIS SECTION, "TRUST COMPANY" HAS THE MEANING STATED IN §  
8 1-101 OF THE ESTATES AND TRUSTS ARTICLE.

9 [(a)] (B) With the application for a new or renewal license, the applicant  
10 [either] shall file EVIDENCE OF a surety [bond or bond renewal certificate or shall  
11 deposit permissible investments] DEVICE with the Commissioner as provided in this  
12 section.

13 [(b)] (C) (1) A surety bond [filed] PURCHASED TO SATISFY THE  
14 PROVISIONS OF SUBSECTION (B) OF [under] this section shall run to this State for  
15 the benefit of any [person who has a cause of action against the applicant for any  
16 liability incurred on any money transmitted by the applicant or by any agent of the  
17 applicant] INDIVIDUAL WHO HAS BEEN DAMAGED BY A VIOLATION OF STATE LAW  
18 OR REGULATION GOVERNING THE BUSINESS OF MONEY TRANSMISSION COMMITTED  
19 BY A LICENSEE OR AN AUTHORIZED DELEGATE OF A LICENSEE.

20 (2) The surety bond shall be:

21 (i) In the amount required [by] UNDER subsection [(d)] (E) of this  
22 section; and

23 (ii) Issued by a bonding, SURETY, [company] or insurance company  
24 that is authorized to do business in this State.

25 (3) [The surety bond shall provide that if a buyer or holder of a payment  
26 instrument or person for whom or to whom money is transmitted obtains a judgment  
27 against the licensee and the judgment remains unsatisfied for more than 30 days  
28 after the licensee and surety are served with notice of the entry of judgment, an  
29 action may be brought against the surety for the amount of the judgment, but not  
30 exceeding the amount of the bond.] THE SURETY BOND SHALL BE CONDITIONED SO  
31 THAT THE LICENSEE AND ANY AUTHORIZED DELEGATE OF THE LICENSEE SHALL  
32 COMPLY WITH ALL STATE AND FEDERAL LAWS AND REGULATIONS GOVERNING THE  
33 BUSINESS OF MONEY TRANSMISSION AND SHALL FULFILL ALL OBLIGATIONS TO ALL  
34 PARTIES TO A MONEY TRANSMISSION.

35 (4) The liability of a surety:

36 (i) Is not affected by the insolvency or bankruptcy of the licensee or  
37 by any misrepresentation, breach of warranty, failure to pay a premium, or other act  
38 or omission of the licensee; and

1 (ii) Continues as to all transactions of the licensee or an [agent]  
2 AUTHORIZED DELEGATE, for no longer than 5 years after the licensee ceases, for any  
3 reason, to be licensed. However, the Commissioner may permit the surety bond to be  
4 reduced or eliminated prior to that time if the amount of the licensee's payment  
5 instruments outstanding in this State are reduced.

6 (5) A licensee or surety may cancel a SURETY bond by giving the  
7 Commissioner notice of the cancellation by certified mail, return receipt requested,  
8 bearing a postmark from the United States Postal Service. However, the cancellation  
9 is not effective until [30] 90 days after the Commissioner receives the notice.

10 [(c)] (D) (1) [Permissible investments deposited under] A DEPOSIT IN LIEU  
11 OF A SURETY BOND MADE TO SATISFY THE PROVISIONS OF SUBSECTION (B) OF this  
12 section shall:

13 (i) Have a market value equal to the amount required [by]  
14 Subsection [(d)] (E) of this section; and

15 (ii) Be held by the Commissioner to secure the same obligations as  
16 are required to be secured by a SURETY bond under subsection [(b)] (C) of this  
17 section.

18 (2) At any time, a licensee may exchange [deposited permissible]  
19 investments for other [permissible] investments that meet the requirements of this  
20 subsection.

21 (3) The Commissioner may sell or transfer [deposited permissible]  
22 investments and [dispose of their proceeds only on the order of a court of competent  
23 jurisdiction.] DISTRIBUTE THE PROCEEDS ON THE SAME BASIS AS PROVIDED FOR  
24 CLAIMS AGAINST A SURETY BOND UNDER PARAGRAPH (C)(1) OF THIS SECTION.

25 (4) As long as a licensee is solvent, the licensee is entitled to receive any  
26 interest or dividends earned by the [deposited permissible] investments.

27 (5) (I) The Commissioner may place the [deposited permissible]  
28 investments in the custody of any qualified trust company [or national banking  
29 association] in this State.

30 (II) The licensee shall pay the compensation of this custodian.

31 [(d)] (E) (1) The amount of the [bond to be filed with the Commissioner or  
32 the fair market value of the permissible investments to be deposited with the  
33 Commissioner] SURETY DEVICE shall be in an amount of not less than [\$100,000  
34 plus an additional amount of not less than \$10,000 for each agent of the licensee, but  
35 in no event shall the bond or fair market value of permissible investments exceed  
36 \$350,000, as set by the Commissioner] \$150,000 AND NOT MORE THAN \$1,000,000, AS  
37 DETERMINED BY THE COMMISSIONER.

38 (2) In setting the amount of the [bond] SURETY DEVICE, the  
39 Commissioner shall consider:

- 1 (i) The financial condition of the LICENSEE OR applicant;
- 2 (ii) [The number of places of business at which the applicant will be  
3 transmitting money;] FOR A LICENSEE, THE AVERAGE MONTHLY OUTSTANDING  
4 PAYMENT INSTRUMENTS OR OUTSTANDING MONEY TRANSMISSION LIABILITY FOR  
5 THE PREVIOUS 12 MONTHS;
- 6 (III) FOR AN APPLICANT, THE PROJECTED MONTHLY PAYMENT  
7 INSTRUMENT SALES AND MONEY TRANSMISSION VOLUME IN THE STATE, THE  
8 BUSINESS EXPERIENCE, AND ANY OTHER FACTOR DEEMED APPROPRIATE; and
- 9 [(iii)] (IV) The potential loss of buyers and holders of payment  
10 instruments or persons for whom or to whom money is transmitted if the applicant OR  
11 LICENSEE becomes financially impaired.
- 12 [(e)] (F) (1) If the principal amount of a [bond] SURETY DEVICE is reduced  
13 by a payment of a claim or judgment, the licensee shall file with the Commissioner  
14 EVIDENCE OF any new or additional [bond] SURETY DEVICE in the amount that the  
15 Commissioner sets.
- 16 (2) If the Commissioner at any time believes that the [bond] SURETY  
17 DEVICE [filed or permissible investments deposited under this section are insecure]  
18 IS INSUFFICIENT, exhausted, or otherwise unsatisfactory, the Commissioner may  
19 require EVIDENCE OF an additional [bond] SURETY DEVICE to be filed [or additional  
20 or substitute permissible investments to be deposited] by the licensee. Within 30 days  
21 after the Commissioner makes a written demand for the new [bond] SURETY DEVICE  
22 [or permissible investments], the licensee shall file the EVIDENCE OF THE new [bond  
23 or deposit the new permissible investments] SURETY DEVICE.
- 24 (G) A PENALTY IMPOSED UNDER § ~~12-426(E)(3)~~ 12-426(E)(2) OF THIS SUBTITLE  
25 MAY BE PAID AND COLLECTED FROM THE PROCEEDS OF A SURETY DEVICE.
- 26 [12-411.] 12-413.
- 27 (a) Each [agent] AUTHORIZED DELEGATE that a licensee [names] APPOINTS  
28 under a license is the designated agent of the licensee for all purposes in connection  
29 with the licensee's business under that license. Each licensee under this subtitle is  
30 liable for the payment of all money transmitted and payment instruments sold by the  
31 licensee, in whatever form, directly or through an [agent] AUTHORIZED DELEGATE.
- 32 (b) Each [agent] AUTHORIZED DELEGATE that a licensee [names] APPOINTS  
33 under a license shall be authorized by an express written contract, which [, for  
34 contracts entered into after October 1, 1997,] shall provide [the following]:
- 35 (1) That the licensee appoints the person as its [agent] AUTHORIZED  
36 DELEGATE with authority to engage in the business of money transmission on behalf  
37 of the licensee;

1           (2)     That neither the licensee nor the [agent] AUTHORIZED DELEGATE  
2 may authorize subagents OR SUBAUTHORIZED DELEGATES without written consent  
3 of the Commissioner; [and]

4           (3)     That the [agent] AUTHORIZED DELEGATE is subject to supervision,  
5 EXAMINATION, and regulation by the Commissioner; AND

6           (4)     THAT THE AUTHORIZED DELEGATE WILL OPERATE IN FULL  
7 COMPLIANCE WITH ALL APPLICABLE LAWS AND REGULATIONS.

8     (C)     THE LICENSEE SHALL PROVIDE TO EACH AUTHORIZED DELEGATE A  
9 WRITTEN COPY OF THE LICENSEE'S OPERATING POLICIES AND PROCEDURES, WHICH  
10 SHALL BE UPDATED ON A REASONABLE PERIODIC BASIS.

11     [(c)]   (D)     Copies of all [such] contracts REQUIRED UNDER THIS SECTION shall  
12 be made available to the Commissioner, upon request.

13     [(d)]   (1)     On or before January 10 and July 10 of each year, each licensee shall  
14 file with the Commissioner a report that:

15                   (i)     Is in the form that the Commissioner requires; and

16                   (ii)    Is signed and verified by the licensee.

17           (2)     The reports shall include, as of the preceding December 31 or June  
18 30, respectively:

19                   (i)     An alphabetical listing of all agents of the licensee, including  
20 name, business address, nature of business, and date of appointment of each agent;

21                   (ii)    The name, business address, nature of business, and date of  
22 appointment of each new agent appointed by the licensee during the previous 6  
23 months;

24                   (iii)   The name of any agent whose agency has been canceled by the  
25 licensee during the previous 6 months; and

26                   (iv)    Any other information that the Commissioner requires.]

27 [12-412.

28     A licensee may not change the place of business for which a license is issued  
29 unless the licensee notifies the Commissioner in writing of the proposed change.]

30 12-414.

31     (A)     AN AUTHORIZED DELEGATE MAY NOT MAKE ANY FRAUDULENT OR FALSE  
32 STATEMENT OR MISREPRESENTATION TO A LICENSEE OR TO THE COMMISSIONER.

33     (B)     ALL MONEY TRANSMISSION SERVICES CONDUCTED BY AN AUTHORIZED  
34 DELEGATE SHALL BE CONDUCTED STRICTLY IN ACCORDANCE WITH THE LICENSEE'S

1 OPERATING POLICIES AND PROCEDURES PROVIDED TO THE AUTHORIZED  
2 DELEGATE.

3 (C) AN AUTHORIZED DELEGATE SHALL REMIT ALL ~~MONEY FUNDS~~ OWED TO  
4 THE LICENSEE IN ACCORDANCE WITH THE TERMS OF THE CONTRACT BETWEEN THE  
5 LICENSEE AND THE AUTHORIZED DELEGATE.

6 (D) (1) ALL FUNDS RECEIVED BY AN AUTHORIZED DELEGATE FROM THE  
7 SALE OF A PAYMENT INSTRUMENT, LESS FEES, SHALL CONSTITUTE TRUST FUNDS  
8 BELONGING TO THE LICENSEE FROM THE TIME THE FUNDS ARE RECEIVED BY THE  
9 AUTHORIZED DELEGATE UNTIL THE TIME WHEN THE FUNDS ARE REMITTED TO THE  
10 LICENSEE.

11 (2) IF AN AUTHORIZED DELEGATE COMMINGLES ANY OF THE FUNDS  
12 RECEIVED WITH ANY OTHER FUNDS OR PROPERTY OWNED OR CONTROLLED BY THE  
13 AUTHORIZED DELEGATE, ALL COMMINGLED ~~PROCEEDS FUNDS~~ AND OTHER  
14 PROPERTY SHALL BE IMPRESSED WITH A TRUST IN FAVOR OF THE LICENSEE IN AN  
15 AMOUNT EQUAL TO THE AMOUNT OF THE ~~PROCEEDS FUNDS~~ DUE THE LICENSEE.

16 (E) AN AUTHORIZED DELEGATE SHALL REPORT TO THE LICENSEE THE THEFT  
17 OR LOSS OF A PAYMENT INSTRUMENT WITHIN 24 HOURS AFTER THE THEFT OR LOSS.  
18 12-415.

19 (A) (1) A LICENSEE MAY NOT CHANGE THE PLACE OF BUSINESS FOR WHICH  
20 A LICENSE IS ISSUED UNLESS THE LICENSEE:

21 (I) NOTIFIES THE COMMISSIONER IN WRITING OF THE PROPOSED  
22 CHANGE; AND

23 (II) RECEIVES THE APPROVAL OF THE COMMISSIONER.

24 (2) WITHIN 60 DAYS AFTER RECEIVING A REQUEST FOR APPROVAL OF A  
25 PROPOSED CHANGE IN THE PLACE OF BUSINESS FOR A LICENSEE, THE  
26 COMMISSIONER SHALL APPROVE OR DENY THE REQUEST.

27 (3) IF THE COMMISSIONER DOES NOT DENY A REQUEST FOR APPROVAL  
28 OF A PROPOSED CHANGE IN THE PLACE OF BUSINESS FOR A LICENSEE AS PROVIDED  
29 UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE REQUEST SHALL BE DEEMED  
30 APPROVED.

31 (B) (1) A LICENSEE MAY NOT UNDERGO A CHANGE IN CONTROL UNLESS  
32 THE LICENSEE:

33 (I) NOTIFIES THE COMMISSIONER IN WRITING OF THE PROPOSED  
34 CHANGE;

35 (II) MAKES A WRITTEN REQUEST THAT THE COMMISSIONER  
36 APPROVE THE PROPOSED CHANGE;

1 (III) PROVIDES ANY INFORMATION THE COMMISSIONER MAY  
2 REQUIRE UNDER PARAGRAPH (3) OF THIS SUBSECTION; AND

3 (IV) RECEIVES THE APPROVAL OF THE COMMISSIONER.

4 (2) WITHIN 60 DAYS AFTER RECEIVING A REQUEST FOR APPROVAL OF A  
5 PROPOSED CHANGE IN CONTROL, THE COMMISSIONER MAY REQUIRE THE LICENSEE  
6 TO PROVIDE ANY INFORMATION DEEMED NECESSARY TO DETERMINE WHETHER A  
7 NEW APPLICATION IS REQUIRED BECAUSE OF THE PROPOSED CHANGE IN CONTROL.

8 (3) THE COMMISSIONER SHALL APPROVE OR DENY A REQUEST FOR  
9 APPROVAL OF A PROPOSED CHANGE IN CONTROL:

10 (I) WITHIN 60 DAYS AFTER THE DATE THE COMMISSIONER  
11 RECEIVES THE REQUEST; OR

12 (II) IF THE COMMISSIONER REQUESTS INFORMATION FROM THE  
13 LICENSEE UNDER PARAGRAPH (2) OF THIS SUBSECTION, WITHIN 60 DAYS AFTER THE  
14 DATE THE INFORMATION IS RECEIVED BY THE COMMISSIONER.

15 (4) IF THE COMMISSIONER DOES NOT DENY A REQUEST FOR APPROVAL  
16 OF A PROPOSED CHANGE IN CONTROL AS PROVIDED UNDER PARAGRAPH (3) OF THIS  
17 SUBSECTION, THE REQUEST SHALL BE DEEMED APPROVED.

18 (C) IN ADDITION TO ANY SANCTIONS THAT MAY BE IMPOSED BY THE  
19 COMMISSIONER UNDER THIS SUBTITLE, A LICENSEE WHO FAILS TO PROVIDE IN A  
20 TIMELY MANNER THE NOTICE REQUIRED UNDER SUBSECTION (A)(1) OR (B)(1) OF THIS  
21 SECTION SHALL:

22 (1) FOR EACH FAILURE, PAY TO THE COMMISSIONER A PENALTY IN THE  
23 AMOUNT OF \$500; AND

24 (2) FILE WITH THE COMMISSIONER AN APPLICATION FOR A NEW  
25 LICENSE, TOGETHER WITH ALL APPROPRIATE APPLICATION AND INVESTIGATION  
26 FEES.

27 [12-413.]12-416.

28 (a) Within 45 days of the end of each calendar semiannual period ENDING  
29 JUNE 30 AND DECEMBER 31 [for which the licensee does not file an audited financial  
30 statement], the licensee shall file with the Commissioner a report that includes THE  
31 FOLLOWING INFORMATION ON A FORM THAT THE COMMISSIONER REQUIRES:

32 (1) An unaudited, unconsolidated [statement of income and a statement  
33 of the condition of the licensee] FINANCIAL STATEMENT, INCLUDING A BALANCE  
34 SHEET, INCOME STATEMENT, STATEMENT OF CHANGES IN EQUITY, AND STATEMENT  
35 OF CASH FLOWS;

36 (2) A schedule of the permissible investments that the licensee holds as  
37 required under [§ 12-414] § 12-418 of this subtitle; [and]

1 (3) A statement of outstanding payment instruments;

2 (4) A REPORT OF ALL AUTHORIZED DELEGATES THAT INCLUDES:

3 (I) AN ALPHABETICAL LIST OF ALL CURRENTLY AUTHORIZED  
4 DELEGATES APPOINTED BY THE LICENSEE THAT INCLUDES THE NAME, BUSINESS  
5 ADDRESS, BUSINESS PHONE NUMBER, AND BUSINESS E-MAIL ADDRESS, IF KNOWN  
6 TO THE LICENSEE, OF EACH AUTHORIZED DELEGATE;

7 (II) AN ALPHABETICAL LIST OF ALL AUTHORIZED DELEGATES  
8 APPOINTED BY THE LICENSEE DURING THE PREVIOUS 6 MONTHS THAT INCLUDES  
9 THE NAME, BUSINESS ADDRESS, BUSINESS PHONE NUMBER, BUSINESS E-MAIL  
10 ADDRESS, IF KNOWN TO THE LICENSEE, AND DATE OF APPOINTMENT OF EACH  
11 AUTHORIZED DELEGATE; AND

12 (III) AN ALPHABETICAL LIST OF ALL AUTHORIZED DELEGATES  
13 TERMINATED BY THE LICENSEE DURING THE PREVIOUS 6 MONTHS THAT INCLUDES  
14 THE NAME, BUSINESS ADDRESS, BUSINESS PHONE NUMBER, BUSINESS E-MAIL  
15 ADDRESS, IF KNOWN TO THE LICENSEE, AND DATE OF TERMINATION OF EACH  
16 AUTHORIZED DELEGATE; AND

17 (5) A STATEMENT UNDER OATH BY AN EXECUTIVE OFFICER OF THE  
18 LICENSEE CERTIFYING THE INFORMATION TO BE TRUE BASED ON THE EXECUTIVE  
19 OFFICER'S KNOWLEDGE OF THE MATTERS IN THE REPORT.

20 (b) On or before [April 30 of each year, or on or before] 120 days after the  
21 close of the fiscal year of the licensee, [ whichever is later,] each licensee shall file  
22 with the Commissioner an annual report that:

23 [(1) Contains the information that the Commissioner requires about the  
24 business of the licensee during the previous license year;

25 (2) Is on the form that the Commissioner requires; and

26 (3) Is signed and verified by the licensee.]

27 (1) INCLUDES FINANCIAL STATEMENTS OF THE LICENSEE AUDITED BY  
28 A CERTIFIED PUBLIC ACCOUNTANT AND PREPARED IN ACCORDANCE WITH  
29 GENERALLY ACCEPTED ACCOUNTING PRINCIPLES FOR THE PREVIOUS CALENDAR  
30 YEAR;

31 (2) STATES THE NUMBER AND AGGREGATE DOLLAR AMOUNT OF  
32 PAYMENT INSTRUMENTS ISSUED OR SOLD AND THE AGGREGATE NUMBER AND  
33 DOLLAR AMOUNT OF MONEY TRANSMISSIONS DURING THE PREVIOUS CALENDAR  
34 YEAR;

35 (3) CONTAINS ANY OTHER INFORMATION THE COMMISSIONER  
36 REASONABLY REQUIRES;

37 (4) IS ON A FORM THAT THE COMMISSIONER REQUIRES; AND

1 (5) IS SIGNED BY AN EXECUTIVE OFFICER OF THE LICENSEE WHO  
2 CERTIFIES UNDER OATH THAT THE INFORMATION IN THE REPORT IS TRUE BASED  
3 ON THE EXECUTIVE OFFICER'S KNOWLEDGE OF THE MATTERS IN THE REPORT.

4 (C) (1) WITHIN 15 DAYS AFTER THE OCCURRENCE OF ANY OF THE  
5 FOLLOWING EVENTS, A LICENSEE SHALL FILE A WRITTEN REPORT WITH THE  
6 COMMISSIONER DESCRIBING THE EVENT AND ITS EXPECTED IMPACT ON THE  
7 LICENSEE'S ACTIVITIES IN THE STATE:

8 (I) THE FILING FOR BANKRUPTCY OR REORGANIZATION BY THE  
9 LICENSEE;

10 (II) THE INSTITUTION OF REVOCATION OR SUSPENSION  
11 PROCEEDINGS AGAINST THE LICENSEE BY ANY STATE OR GOVERNMENTAL  
12 AUTHORITY WITH REGARD TO THE LICENSEE'S MONEY TRANSMISSION ACTIVITIES  
13 IN ANY STATE;

14 (III) ANY FELONY INDICTMENT OR CONVICTION OF THE LICENSEE  
15 OR ANY OF ITS OFFICERS OR DIRECTORS RELATED TO MONEY TRANSMISSION  
16 ACTIVITIES;

17 [(c) (1)] (IV) [If] THE COMMENCEMENT OF ANY CIVIL ACTION BY a buyer or  
18 holder of a payment instrument or person for whom or to whom money is transmitted  
19 [brings an action] against a licensee; AND

20 (V) THE FILING OF ANY MATERIAL LITIGATION AGAINST THE  
21 LICENSEE.[, the licensee shall:

22 (i) Notify]

23 (2) THE WRITTEN REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS  
24 SUBSECTION SHALL BE SENT TO the Commissioner [of the action] by certified mail,  
25 return receipt requested, bearing a postmark from the United States Postal Service,  
26 within 10 days after the action is begun[;] and

27 [(ii) Include in the notice] INCLUDE details sufficient to identify the  
28 [action] EVENT.

29 [(2) If judgment is entered against a licensee, the licensee shall:

30 (i) Notify the Commissioner of the judgment by registered mail  
31 within 10 days after judgment is entered; and

32 (ii) Include in the notice details sufficient to identify the judgment.

33 (3) If a surety pays a claim or judgment against a licensee, the surety  
34 shall:

35 (i) Notify the Commissioner of the payment by registered mail  
36 within 10 days after the payment is made; and

1 (ii) Include in the notice details sufficient to identify the buyer or  
2 holder of the payment instrument or person for whom or to whom money is  
3 transmitted and the claim or judgment paid.]

4 (D) A LICENSEE PROMPTLY SHALL FILE WITH THE COMMISSIONER ANY  
5 DEMAND BORROWING AGREEMENT OR AGREEMENTS INTO WHICH THE LICENSEE  
6 MAY ENTER AS A PERMISSIBLE INVESTMENT OR A DEPOSIT IN LIEU OF A SURETY  
7 BOND.

8 12-417.

9 A LICENSEE SHALL COMPLY WITH ALL FEDERAL AND STATE LAWS AND  
10 REGULATIONS CONCERNING THE BUSINESS OF MONEY TRANSMISSION, MONEY  
11 LAUNDERING, AND ABANDONED PROPERTY.

12 [12-414.] 12-418.

13 (a) (1) [EACH PERSON LICENSED TO TRANSMIT MONEY] SUBJECT TO THE  
14 PROVISIONS OF PARAGRAPH (2) OF THIS SUBSECTION, A LICENSEE shall have at all  
15 times permissible investments HAVING AN AGGREGATE [with a book or] market  
16 value, CALCULATED IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING  
17 PRINCIPLES [whichever is greater, that at least equals the total of the outstanding  
18 money transmissions], OF NOT LESS THAN THE AGGREGATE FACE AMOUNT OF ALL  
19 OUTSTANDING PAYMENT INSTRUMENTS ISSUED OR SOLD BY THE LICENSEE IN THE  
20 UNITED STATES.

21 (2) THE REQUIREMENT IMPOSED UNDER PARAGRAPH (1) OF THIS  
22 SUBSECTION MAY BE WAIVED BY THE COMMISSIONER IF THE DOLLAR VOLUME OF A  
23 LICENSEE'S OUTSTANDING PAYMENT INSTRUMENTS DOES NOT EXCEED THE  
24 SURETY DEVICE FILED IN ACCORDANCE WITH § 12-412 OF THIS SUBTITLE.

25 (b) A licensee shall require each [agent] AUTHORIZED DELEGATE to[:

26 (1) Hold in trust from the moment of receipt the proceeds of a money  
27 transmission. An agent may not commingle the proceeds with his own property or  
28 funds, except to use the funds in the ordinary course of its business for the purpose of  
29 making change and cashing instruments, and except to remit the proceeds to the  
30 licensee in an amount equal to that due the licensee as a result of money  
31 transmissions by the agent or subagent. If any agent of a licensee commingles any  
32 proceeds received from money transmissions by the licensee with any other funds or  
33 property owned or controlled by the agent, all commingled proceeds and other  
34 property shall be impressed with a trust in favor of such licensee in an amount equal  
35 to the amount of the proceeds due the licensee from money transmissions less the  
36 amount due the agent from the sale.

37 (2) Within] WITHIN 48 hours [of] AFTER the next regular business day  
38 after the [agent] AUTHORIZED DELEGATE receives the [money] PROCEEDS FROM A  
39 MONEY TRANSMISSION, remit the [money] PROCEEDS to the licensee or the  
40 licensee's authorized representative, or deposit the [money] PROCEEDS in the  
41 licensee's account with a financial institution.

1 (c) Deposit by the [agent] AUTHORIZED DELEGATE in an account with a  
2 financial institution of funds in advance of money transmissions, but in an amount  
3 not less than the amount that the [agent] AUTHORIZED DELEGATE would normally  
4 receive from money transmissions, constitutes compliance with this section.

5 [12-415.] 12-419.

6 (a) The original buyer of a payment instrument may request a duplicate of the  
7 instrument if the request is:

8 (1) In writing; and

9 (2) If required by the licensee, accompanied by:

10 (i) An affidavit that gives the reason for the request and states the  
11 facts relating to the loss of or other failure to produce the original payment  
12 instrument; and

13 (ii) A personal indemnity bond or, if the total amount of the  
14 payment instruments for which a duplicate is requested is [\$50] \$150 or more, a lost  
15 instrument corporate bond instead of a personal indemnity bond.

16 (b) Each licensee shall issue or refuse to issue a duplicate payment instrument  
17 within 30 days after a request for the duplicate is made under this section.

18 [12-416.] 12-420.

19 Except as permitted by § 17-308.1 of the Commercial Law Article, a licensee OR  
20 ITS AUTHORIZED DELEGATE may ~~not~~ charge a service fee, NOT TO EXCEED \$5, to any  
21 original buyer who redeems an unused payment instrument.

22 [12-417.] 12-421.

23 [(a) A determination as to the value of permissible investments of an applicant  
24 or licensee shall be computed in accordance with recognized accounting principles.]

25 [(b)] If the Commissioner finds that the books, records, and accounting  
26 procedures of a licensee are not adequate to enable the Commissioner to determine  
27 whether the licensee is in compliance with this subtitle, the Commissioner may  
28 require the licensee to **HAVE A CERTIFIED PUBLIC ACCOUNTANT AUDIT THE**  
29 **LICENSEE FOR ANY PERIOD OF TIME THE COMMISSIONER CONSIDERS NECESSARY**  
30 **OR** adopt standard, recognized accounting and bookkeeping procedures and records  
31 for this purpose.

32 [12-418.] 12-422.

33 (a) (1) A licensee may surrender a license by sending to the Commissioner a  
34 written statement that the license is surrendered.

1           (2)     The statement shall [include] PROVIDE a listing, by identifying  
2 number, face amount, and place of issue, of all outstanding payment instruments,  
3 AND THE REASONS FOR THE LICENSE SURRENDER.

4       (b)     The surrender of a license does not:

5           (1)     Affect any civil or criminal liability of the licensee for acts committed  
6 before the license is surrendered;

7           (2)     Affect the [bond] SURETY DEVICE filed [or permissible investments  
8 deposited] by the licensee; or

9           (3)     Entitle the licensee to the return of any part of any fee.

10 [12-419.] 12-423.

11       (a)     To discover any violations of this subtitle or to obtain any information  
12 required by this subtitle, the Commissioner at any time may investigate the business  
13 of:

14           (1)     Any licensee;

15           (2)     Any person who is engaged or participating in the business of  
16 [transmitting money] MONEY TRANSMISSION, whether as AUTHORIZED DELEGATE,  
17 principal, agent, or otherwise; and

18           (3)     Any other person who the Commissioner has cause to believe is  
19 violating this subtitle[,] OR ANY REGULATION ADOPTED UNDER THIS SUBTITLE  
20 whether that person claims to be within or beyond the scope of this subtitle.

21       (b)     For the purposes of this section, the Commissioner:

22           (1)     Shall be given access to the place of business, books, papers, records,  
23 safes, and vaults of the person under investigation; and

24           (2)     May summon and examine under oath any person whose testimony  
25 the Commissioner requires.

26       (C)     (1)     IF A PERSON FAILS TO COMPLY WITH A SUBPOENA OR SUMMONS OF  
27 THE COMMISSIONER UNDER THIS SUBTITLE OR TO TESTIFY CONCERNING ANY  
28 MATTER ABOUT WHICH THE PERSON MAY BE INTERROGATED UNDER THIS  
29 SUBTITLE, THE COMMISSIONER MAY FILE A PETITION FOR ENFORCEMENT WITH THE  
30 CIRCUIT COURT FOR ANY COUNTY.

31           (2)     ON PETITION BY THE COMMISSIONER, THE COURT MAY ORDER THE  
32 PERSON TO ATTEND AND TESTIFY OR PRODUCE EVIDENCE.

1 12-424.

2 (A) THE COMMISSIONER MAY CONDUCT AN ON-SITE EXAMINATION OF A  
3 LICENSEE OR AUTHORIZED DELEGATE WITH NOT LESS THAN 7 BUSINESS DAYS  
4 PRIOR NOTICE.

5 (B) WITH GOOD CAUSE, THE COMMISSIONER MAY CONDUCT AN ON-SITE  
6 EXAMINATION OF A LICENSEE OR AUTHORIZED DELEGATE WITH NO PRIOR NOTICE.

7 (C) THE LICENSEE SHALL PAY ALL REASONABLY INCURRED COSTS OF AN  
8 EXAMINATION.

9 (D) THE ON-SITE EXAMINATION MAY BE CONDUCTED IN CONJUNCTION WITH  
10 AN EXAMINATION PERFORMED BY A REPRESENTATIVE OF A RESPONSIBLE  
11 SUPERVISORY AGENCY OF ANOTHER STATE.

12 (E) (1) THE COMMISSIONER, IN LIEU OF AN ON-SITE EXAMINATION, MAY  
13 ACCEPT THE EXAMINATION REPORT OF A RESPONSIBLE SUPERVISORY AGENCY OF  
14 ANOTHER STATE, OR A REPORT PREPARED BY AN INDEPENDENT ACCOUNTING FIRM.

15 (2) A REPORT ACCEPTED UNDER PARAGRAPH (1) OF THIS SUBSECTION IS  
16 CONSIDERED FOR ALL PURPOSES AS AN OFFICIAL REPORT OF THE COMMISSIONER.

17 (F) THE COMMISSIONER MAY:

18 (1) EXAMINE ALL BOOKS, ACCOUNTS, AND RECORDS THE  
19 COMMISSIONER DETERMINES ARE NECESSARY TO CONDUCT A COMPLETE  
20 EXAMINATION; AND

21 (2) EXAMINE UNDER OATH ANY OFFICER, DIRECTOR, OR EMPLOYEE OF  
22 THE LICENSEE, OR ANY OTHER INDIVIDUAL WHO MAY PROVIDE INFORMATION ON  
23 BEHALF OF THE LICENSEE.

24 12-425.

25 (A) EACH LICENSEE SHALL MAKE AND PRESERVE THE FOLLOWING BOOKS,  
26 ACCOUNTS, AND RECORDS FOR A PERIOD OF AT LEAST 3 YEARS:

27 (1) A RECORD OF EACH PAYMENT INSTRUMENT SOLD OR ISSUED;

28 (2) A GENERAL LEDGER CONTAINING ALL ASSETS, LIABILITY, CAPITAL,  
29 INCOME, AND EXPENSE ACCOUNTS, WHICH GENERAL LEDGER SHALL BE POSTED AT  
30 LEAST MONTHLY;

31 (3) SETTLEMENT SHEETS RECEIVED FROM EACH AUTHORIZED  
32 DELEGATE;

33 (4) BANK STATEMENTS AND BANK RECONCILIATION RECORDS;

34 (5) RECORDS OF OUTSTANDING PAYMENT INSTRUMENTS;

1 (6) RECORDS OF EACH PAYMENT INSTRUMENT PAID WITHIN THE  
2 3-YEAR PERIOD; AND

3 (7) A LIST OF THE NAMES AND ADDRESSES OF ALL THE LICENSEE'S  
4 AUTHORIZED DELEGATES, PAST AND PRESENT.

5 (B) A LICENSEE SHALL RETAIN THE RECORDS REQUIRED UNDER THIS  
6 SECTION IN:

7 (1) ORIGINAL FORM; OR

8 (2) PHOTOGRAPHIC, ELECTRONIC, OR OTHER SIMILAR FORM.

9 (C) A LICENSEE MAY RETAIN THE RECORDS REQUIRED UNDER THIS SECTION  
10 AT ANY LOCATION, PROVIDED THAT THE LICENSEE:

11 (1) NOTIFIES THE COMMISSIONER IN WRITING OF THE LOCATION OF  
12 THE RECORDS; AND

13 (2) MAKES THE RECORDS AVAILABLE AT A PLACE OF BUSINESS FOR  
14 WHICH A LICENSE HAS BEEN ISSUED, AS AGREED BY THE COMMISSIONER AND THE  
15 LICENSEE, WITHIN 7 DAYS AFTER A WRITTEN REQUEST FOR EXAMINATION BY THE  
16 COMMISSIONER.

17 [12-420.] 12-426.

18 (a) Subject to the hearing provisions of [§ 12-421] § 12-428 of this subtitle, the  
19 Commissioner may suspend or revoke the license of any licensee [who violates any  
20 provision of this subtitle.] IF:

21 (1) THE LICENSEE OR ANY OWNER, DIRECTOR, OFFICER, MEMBER,  
22 COVENTURER, PARTNER, STOCKHOLDER, EMPLOYEE, ~~AGENT, OR AUTHORIZED~~  
23 ~~DELEGATE OR AGENT~~ OF THE LICENSEE:

24 (I) MAKES ANY MATERIAL MISSTATEMENT IN AN APPLICATION  
25 FOR A LICENSE;

26 (II) CONDUCTS THE BUSINESS OF MONEY TRANSMISSION IN AN  
27 UNSAFE OR UNSOUND MANNER;

28 (III) REFUSES TO PERMIT THE COMMISSIONER TO MAKE AN  
29 EXAMINATION AUTHORIZED UNDER THIS SUBTITLE;

30 (IV) WILLFULLY FAILS TO MAKE A REPORT REQUIRED UNDER THIS  
31 SUBTITLE;

32 (V) IS CONVICTED UNDER THE LAWS OF THE UNITED STATES OR  
33 ANY STATE OF A FELONY OR A MISDEMEANOR THAT IS DIRECTLY RELATED TO THE  
34 FITNESS AND QUALIFICATION OF THE PERSON TO ENGAGE IN THE BUSINESS OF  
35 MONEY TRANSMISSION;

1 (VI) IN CONNECTION WITH ANY MONEY TRANSMISSION  
2 TRANSACTION:

- 3 1. COMMITS A FRAUD;  
4 2. ENGAGES IN AN ILLEGAL OR DISHONEST ACTIVITY; OR  
5 3. MISREPRESENTS OR FAILS TO DISCLOSE A MATERIAL  
6 ~~FACT TO ANYONE ENTITLED TO KNOW THAT INFORMATION~~ A GOVERNMENTAL  
7 AGENCY;

8 (VII) VIOLATES ANY PROVISION OF THIS SUBTITLE OR ANY  
9 REGULATION ADOPTED UNDER THIS SUBTITLE, OR ANY OTHER LAW REGULATING  
10 THE BUSINESS OF MONEY TRANSMISSION; OR

11 (VIII) OTHERWISE DEMONSTRATES UNWORTHINESS, BAD FAITH,  
12 DISHONESTY, OR ANY OTHER QUALITY THAT INDICATES THAT THE BUSINESS OF THE  
13 LICENSEE HAS NOT BEEN OR WILL NOT BE CONDUCTED HONESTLY, FAIRLY,  
14 EQUITABLY, AND EFFICIENTLY; OR

15 (2) THE LICENSEE:

16 (I) HAS INADEQUATE NET WORTH AND THE LICENSEE, AFTER 10  
17 DAYS' WRITTEN NOTICE FROM THE COMMISSIONER, FAILS TO TAKE STEPS THAT THE  
18 COMMISSIONER DEEMS NECESSARY TO REMEDY THE DEFICIENCY;

19 (II) BECOMES INSOLVENT;

20 (III) HAS SUSPENDED PAYMENT OF ITS OBLIGATIONS, MADE AN  
21 ASSIGNMENT FOR THE BENEFIT OF ITS CREDITORS, OR ADMITTED ITS INABILITY TO  
22 PAY ITS DEBTS AS THEY BECOME DUE; OR

23 (IV) HAS APPLIED FOR AN ADJUDICATION OF BANKRUPTCY,  
24 REORGANIZATION, ARRANGEMENT, OR OTHER RELIEF UNDER ANY BANKRUPTCY  
25 PROCEEDING.

26 [(b) The Commissioner shall begin proceedings to revoke the license of any  
27 licensee who the Commissioner finds ceases to meet the requirements for licensure.]

28 (B) IN DETERMINING WHETHER A LICENSE SHOULD BE SUSPENDED OR  
29 REVOKED FOR A REASON IDENTIFIED IN SECTION (A)(1)(V) OF THIS SECTION, THE  
30 COMMISSIONER SHALL CONSIDER:

31 (1) THE NATURE OF THE CRIME;

32 (2) THE RELATIONSHIP OF THE CRIME TO THE ACTIVITIES AUTHORIZED  
33 BY THE LICENSE;

34 (3) WITH RESPECT TO A FELONY, THE RELEVANCE OF THE CONVICTION  
35 TO THE FITNESS AND QUALIFICATION OF THE LICENSEE TO ENGAGE IN THE  
36 BUSINESS OF MONEY TRANSMISSION;

1 (4) THE LENGTH OF TIME SINCE THE CONVICTION; AND

2 (5) THE BEHAVIOR AND ACTIVITIES OF THE LICENSEE SINCE THE  
3 CONVICTION.

4 (C) SUBJECT TO THE HEARING PROVISIONS OF § 12-428 OF THIS SUBTITLE,  
5 THE COMMISSIONER MAY ISSUE AN ORDER TO THE LICENSEE TO TERMINATE ITS  
6 RELATIONSHIP WITH AN AUTHORIZED DELEGATE IF THE COMMISSIONER FINDS  
7 THAT:

8 (1) THE AUTHORIZED DELEGATE OR A DIRECTOR, OFFICER, EMPLOYEE,  
9 OR PERSON THAT HAS CONTROL OF THE AUTHORIZED DELEGATE:

10 (I) HAS VIOLATED ANY PROVISION OF THIS SUBTITLE OR ANY  
11 REGULATION ADOPTED OR ORDER ISSUED UNDER THIS SUBTITLE;

12 (II) HAS ENGAGED OR PARTICIPATED IN AN UNSAFE OR UNSOUND  
13 ACT WITH RESPECT TO THE BUSINESS OF MONEY TRANSMISSION;

14 (III) HAS MADE OR CAUSED TO BE MADE IN ANY APPLICATION OR  
15 REPORT FILED WITH THE COMMISSIONER OR IN A PROCEEDING BEFORE THE  
16 COMMISSIONER, A STATEMENT WHICH WAS AT THE TIME AND IN THE  
17 CIRCUMSTANCES UNDER WHICH IT WAS MADE, FALSE OR MISLEADING WITH  
18 RESPECT TO A MATERIAL FACT, OR HAS OMITTED TO STATE IN AN APPLICATION OR  
19 REPORT A MATERIAL FACT WHICH IS REQUIRED TO BE STATED; OR

20 (IV) HAS FAILED TO COOPERATE WITH AN EXAMINATION OR  
21 INVESTIGATION BY THE COMMISSIONER AUTHORIZED BY THIS SUBTITLE; OR

22 (2) THE COMPETENCE, EXPERIENCE, INTEGRITY, FINANCIAL  
23 CONDITION, OR OVERALL MORAL CHARACTER OF THE AUTHORIZED DELEGATE, OR A  
24 DIRECTOR, OFFICER, EMPLOYEE, OR PERSON THAT HAS CONTROL OF THE  
25 AUTHORIZED DELEGATE, INDICATES THAT IT WOULD NOT BE IN THE INTEREST OF  
26 THE PUBLIC TO PERMIT THE PERSON TO ENGAGE IN THE BUSINESS OF MONEY  
27 TRANSMISSION.

28 (D) (1) THE AUTHORIZED DELEGATE ABOUT WHOM AN ORDER IS ISSUED  
29 UNDER THIS SECTION MAY APPLY TO THE COMMISSIONER TO MODIFY OR RESCIND  
30 THE ORDER.

31 (2) THE COMMISSIONER MAY NOT GRANT AN APPLICATION FILED  
32 UNDER PARAGRAPH (1) OF THIS SUBSECTION UNLESS THE COMMISSIONER FINDS  
33 THAT:

34 (I) IT IS IN THE PUBLIC INTEREST TO MODIFY OR RESCIND THE  
35 ORDER; AND

36 (II) IT IS REASONABLE TO BELIEVE THAT THE AUTHORIZED  
37 DELEGATE, IF AND WHEN PERMITTED TO RESUME ACTING AS AN AUTHORIZED  
38 DELEGATE OF A LICENSEE, WILL COMPLY WITH ALL APPLICABLE PROVISIONS OF

1 THIS SUBTITLE AND ANY REGULATION ADOPTED OR ORDER ISSUED UNDER THIS  
2 SUBTITLE.

3 [(c) (1)] (E)(1) The Commissioner may enforce the provisions of this subtitle by  
4 issuing an order:

5 (i) To cease and desist AND TO TAKE AFFIRMATIVE ACTION from  
6 the violation and any further similar violations; and

7 (ii) Requiring the violator to take affirmative action to correct the  
8 violation including the restitution of money or property to any person aggrieved by  
9 the violation.

10 (2) If a violator fails to comply with an order issued under paragraph (1)  
11 of this subsection, the Commissioner may impose a civil penalty of up to \$1,000 for  
12 [each] THE FIRST violation AND \$5,000 FOR EACH SUBSEQUENT VIOLATION from  
13 which the violator failed to cease and desist or for which the violator failed to take  
14 affirmative action.

15 [(d)] (F) The Commissioner may file a petition in the circuit court for any  
16 county seeking enforcement of an order issued under this section.

17 [(e)] (G) In determining the amount of financial penalty to be imposed under  
18 subsection [(c)] (E) of this section, the Commissioner shall consider the following:

19 (1) The seriousness of the violation;

20 (2) The good faith of the violator;

21 (3) The violator's history of previous violations;

22 (4) The deleterious effect of the violation on the public;

23 (5) The assets of the violator; and

24 (6) Any other factors relevant to the determination of the financial  
25 penalty.

26 12-427.

27 A PERSON THAT ENGAGES IN THE BUSINESS OF MONEY TRANSMISSION IS  
28 SUBJECT TO THE ENFORCEMENT PROVISIONS OF §§ ~~2-113~~ 2-114 THROUGH 2-116 OF  
29 THIS ARTICLE IF THE PERSON:

30 (1) IS NOT LICENSED UNDER THIS SUBTITLE; OR

31 (2) IS NOT AN AUTHORIZED DELEGATE OF A LICENSEE; ~~OR,~~

32 (3) ~~IS EXEMPT FROM LICENSING UNDER THIS SUBTITLE.~~

1 [12-421.] 12-428.

2 (a) Before the Commissioner denies an application for a license under [§  
3 12-407] § 12-409 of this subtitle or takes any action under [§ 12-420]§ 12-426 of this  
4 subtitle, the Commissioner shall give the applicant or licensee an opportunity for a  
5 hearing.

6 (b) Notice of the hearing shall be given and the hearing shall be held in  
7 accordance with the Administrative Procedure Act.

8 (c) For a hearing on the proposed suspension or revocation of a license, the  
9 hearing notice to be given to the licensee shall be [mailed] SENT BY REGISTERED OR  
10 CERTIFIED MAIL at least [20] 15 days before the hearing to the place of business  
11 stated in the license.

12 [12-422.

13 Any person who is aggrieved by any decision or finding of the Commissioner  
14 under this subtitle may appeal to the circuit court for the county in which the  
15 aggrieved person resides or has a principal place of business.]

16 [12-423.]12-429.

17 The State's Attorney for the county in which the violation occurs or the Attorney  
18 General may prosecute any violation of this subtitle.

19 [12-424.

20 Any person who violates any provision of this subtitle is guilty of a misdemeanor  
21 and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not  
22 exceeding 5 years or both.]

23 12-430.

24 ANY PERSON WHO KNOWINGLY AND WILLFULLY VIOLATES ANY PROVISION OF  
25 THIS SUBTITLE IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO A FINE  
26 NOT EXCEEDING \$1,000 FOR THE FIRST VIOLATION AND NOT EXCEEDING \$5,000 FOR  
27 EACH SUBSEQUENT VIOLATION OR IMPRISONMENT NOT EXCEEDING 5 YEARS OR  
28 BOTH.

29 12-431.

30 THIS SUBTITLE MAY BE CITED AS THE MARYLAND MONEY TRANSMISSION ACT.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
32 October 1, 2002.

