
By: Chairman, Finance Committee (Departmental - Labor, Licensing and Regulation)

Introduced and read first time: January 27, 1997

Rule 32(e) suspended

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Financial Institutions - Money Transmission**

3 FOR the purpose of eliminating the annual agent fee paid by licensees; providing for
4 certain responsibilities of licensees with respect to their agents; defining certain
5 terms; eliminating a certain exemption from licensing; revising the payment
6 schedule of certain fees; amending the frequency and content of certain reports
7 relating to enforcement against violators; and generally relating to sellers of
8 payment instruments and traveler's checks and money transmission.

9 BY repealing and reenacting, with amendments,

10 Article - Financial Institutions

11 Section 12-401, 12-402, 12-404, 12-406, 12-409, 12-410, 12-411, 12-412, 12-413,

12 12-414, 12-415, 12-416, 12-418, 12-419, and 12-420

13 Annotated Code of Maryland

14 (1992 Replacement Volume and 1996 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article - Financial Institutions**

18 12-401.

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

20 (b) (1) "Agent" means a person who is authorized by a licensee to [issue or sell
21 payment instruments or traveler's checks] TRANSMIT MONEY under the name of the
22 licensee at any location other than the place of business specified in the license.

23 (2) "Agent" does not include a branch office of a licensee.

24 (c) "License" means a license issued by the Commissioner under this subtitle to
25 [issue or sell payment instruments or traveler's checks]TRANSMIT MONEY.

26 (D) "MONEY TRANSMISSION" MEANS THE SALE OR ISSUANCE OF PAYMENT
27 INSTRUMENTS, OR ENGAGING IN THE BUSINESS OF RECEIVING MONEY FOR
28 TRANSMISSION OR TRANSMITTING MONEY WITHIN THE UNITED STATES OR TO

2
1 LOCATIONS ABROAD BY ANY MEANS, INCLUDING, BUT NOT LIMITED TO, PAYMENT
2 INSTRUMENTS, WIRE, FACSIMILE, OR ELECTRONIC TRANSFER.

3 [(d)] (E) "Outstanding" means sold in the United States and reported to the
4 licensee AS NOT YET PAID OR TRANSMITTED.

5 [(e)] (F) (1) "Payment instrument" means [an order for the payment or
6 transmission of money.

7 (2) "Payment instrument" includes a check, draft, money order, or other
8 instrument for the payment or transmission of money, whether or not the instrument is:

9 (i) Negotiable; or

10 (ii) Sold to one or more persons.

11 (3) "Payment instrument" does not include:

12 (i) A traveler's check;

13 (ii) An instrument that the issuer may redeem in merchandise or
14 services;

15 (iii) A letter of credit; or

16 (iv) A permissible investment.] ANY CHECK, DRAFT, MONEY ORDER,
17 TRAVELER'S CHECK OR OTHER INSTRUMENT, OR WRITTEN ORDER FOR THE
18 TRANSMISSION OF MONEY, SOLD OR ISSUED TO ONE OR MORE PERSONS, WHETHER
19 OR NOT SUCH INSTRUMENT IS NEGOTIABLE. THE TERM "PAYMENT INSTRUMENT"
20 DOES NOT INCLUDE ANY CREDIT CARD VOUCHER, LETTER OF CREDIT, OR
21 INSTRUMENT REDEEMABLE BY THE ISSUER IN GOODS OR SERVICES.

22 [(f)] (G) "Permissible investment" means:

23 (1) Cash;

24 (2) A certificate of deposit or other debt instrument of a banking institution,
25 except a capital note;

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

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

30 (ii) Obligations of or obligations guaranteed by the United States, any
31 state, or any of their agencies or instrumentalities;

32 (iii) A bill, note, bond, debenture, or preferred stock that is traded on
33 a national over-the-counter market or exchange;

34 (iv) Commercial paper of prime quality as defined by a nationally
35 recognized organization that rates securities; and

1 (v) Any demand borrowing agreement or agreements in an amount or
2 aggregate amount which does not exceed 10 percent of the net worth of the company
3 liable for payment under the agreement thereof as shown on financial statements
4 certified by a certified public accountant acceptable to the Commissioner, which company
5 is a corporation or a subsidiary of a corporation whose capital stock is listed on a national
6 exchange and is not a licensee or agent of a licensee under this subtitle. The borrowing
7 agreements shall be filed with the Commissioner in addition to quarterly financial
8 statements and any other financial information as the Commissioner may deem necessary;
9 and

10 (4) Any other investment that the Commissioner approves.

11 [(g) "Traveler's check" means an instrument for the payment of money that:

12 (1) Is a multiple of any denomination;

13 (2) Provides for a specimen signature of the buyer to be completed when the
14 instrument is bought; and

15 (3) Provides for a countersignature of the buyer, to be completed when the
16 instrument is negotiated.]

17 12-402.

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

19 (1) Any banking institution;

20 (2) Any national banking association;

21 (3) Any credit union;

22 (4) Any savings and loan association;

23 (5) The United States government or any of its departments or agencies;

24 [(6) The receipt of money by an incorporated telegraph company for
25 immediate transmission by telegraph;

26 (7)] (6) The sale of payment instruments [or traveler's checks] by any
27 person on behalf of any other person who is exempted by this subsection, if the payment
28 instruments [or traveler's checks] were received from the other person under a trust
29 receipt for the specific purpose of sale; [or

30 (8)] (7) Any other-state bank having a branch in this State[.]; OR

31 (8) ANY AGENT OF A LICENSEE, ACTING WITHIN THE SCOPE OF
32 AUTHORITY CONFERRED BY A WRITTEN CONTRACT AS DESCRIBED IN THIS
33 SUBTITLE.

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

4

1 12-404.

2 A person may not engage in the business of [issuing or selling payment instruments
3 or traveler's checks]TRANSMITTING MONEY unless the person:

4 (1) Is licensed by the Commissioner;

5 (2) Is an agent of a licensee under whose name the [payment instruments or
6 traveler's checks are issued or sold]MONEY IS TRANSMITTED; or

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

8 12-406.

9 (a) (1) To apply for a license, an applicant shall sign and submit to the
10 Commissioner a verified application in the form that the Commissioner requires.

11 (2) The application shall include:

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

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

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

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

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

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

23 (2) The statement shall:

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

26 (ii) Be audited and certified by an independent certified public
27 accountant; and

28 (iii) Include a schedule of all of the permissible investments of the
29 applicant.

30 (c) With the application, the applicant shall pay to the Commissioner:

31 (1) An investigation fee of \$500; AND

32 (2) [The agent fee required by § 12-411 of this subtitle; and

33 (3)] A license fee of either:

5

1 (i) [~~\$200~~] \$400 if the applicant applies for the license on or after
2 January 1 and on or before [~~June 30~~] DECEMBER 31 OF AN EVEN-NUMBERED YEAR;
3 [or]

4 (ii) EFFECTIVE JANUARY 1, 1999, [~~\$100~~] \$200 if the applicant applies
5 for the license on or after [~~July~~] JANUARY 1 and on or before December 31 OF AN
6 ODD-NUMBERED YEAR; OR

7 (III) \$400 IF THE APPLICANT APPLIES FOR THE LICENSE ON OR
8 AFTER OCTOBER 1, 1997 AND ON OR BEFORE DECEMBER 31, 1997.

9 (d) With the application, the applicant shall file a surety bond or deposit
10 permissible investments with the Commissioner as provided in § 12-410 of this subtitle.

11 (e) (1) For each license for which an applicant applies, the applicant shall:

12 (i) Submit a separate application;

13 (ii) Submit a separate financial statement; AND

14 (iii) Pay a separate license fee[; and

15 (iv) For each agent who is authorized to do business under each
16 license, pay the agent fee required by § 12-411 of this subtitle].

17 (2) If an applicant has or is applying for more than one license, the
18 applicant may comply with subsection (d) of this section by filing only one bond or
19 depositing only one set of permissible investments.

20 (3) If an applicant has or is applying for more than one license, the
21 applicant is not required to file a separate investigation fee.

22 12-409.

23 (a) A license expires on [the] December 31 IN EACH ODD-NUMBERED YEAR
24 after [its effective date] DECEMBER 31, 1997, unless it is renewed for a [1-year] 2-YEAR
25 term as provided in this section.

26 (b) On or before December [10]1 OF THE YEAR OF EXPIRATION, a [licensee
27 may renew a license] LICENSE MAY BE RENEWED for an additional [year] 2 YEARS, if
28 the licensee:

29 (1) Otherwise is entitled to be licensed;

30 (2) Files any bond renewal certificate or new bond or deposits any new
31 permissible investments required by § 12-410 of this subtitle;

32 (3) Pays to the Commissioner a license fee of [~~\$200~~] \$400; AND

33 [(4) Submits the report and pays the agent fee required by § 12-411 of this
34 subtitle; and

35 (5)] (4) Submits to the Commissioner:

6

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

3 (ii) A financial statement that complies with the requirements of §
4 12-406(b)(2) of this subtitle.

5 12-410.

6 (a) With the application for a new or renewal license, the applicant either shall
7 file a surety bond or bond renewal certificate or shall deposit permissible investments
8 with the Commissioner as provided in this section.

9 (b) (1) A surety bond filed under this section shall run to this State for the
10 benefit of any person who has a cause of action against the applicant for any liability
11 incurred on [a payment instrument or traveler's check issued or sold] ANY MONEY
12 TRANSMITTED by the applicant or by any agent of the applicant.

13 (2) The surety bond shall be:

14 (i) In the amount required by subsection (d) of this section; and

15 (ii) Issued by a bonding company or insurance company that is
16 authorized to do business in this State.

17 (3) The surety bond shall provide that if a buyer or holder of a payment
18 instrument or [traveler's check] PERSON FOR WHOM OR TO WHOM MONEY IS
19 TRANSMITTED obtains a judgment against the licensee and the judgment remains
20 unsatisfied for more than 30 days after the licensee and surety are served with notice of
21 the entry of judgment, an action may be brought against the surety for the amount of the
22 judgment, but not exceeding the amount of the bond.

23 (4) The liability of a surety:

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

27 (ii) Continues[, if the licensee dies, dissolves, or liquidates,] as to all
28 transactions of THE LICENSEE OR an agent, FOR NO LONGER THAN 5 YEARS AFTER
29 THE LICENSEE CEASES, FOR ANY REASON, TO BE LICENSED [until the earlier of 60
30 days after the death, dissolution, or liquidation or 60 days after the termination of the
31 bond]. HOWEVER, THE COMMISSIONER MAY PERMIT THE SURETY BOND TO BE
32 REDUCED OR ELIMINATED PRIOR TO THAT TIME IF THE AMOUNT OF THE
33 LICENSEE'S PAYMENT INSTRUMENTS OUTSTANDING IN THIS STATE ARE REDUCED.

34 (5) A licensee or surety may cancel a bond by giving the Commissioner
35 notice of the cancellation by certified mail, return receipt requested, bearing a postmark
36 from the United States Postal Service. However, the cancellation is not effective until 30
37 days after the Commissioner receives the notice.

38 (c) (1) Permissible investments deposited under this section shall:

39 (i) Have a market value equal to the amount required by subsection
40 (d) of this section; and

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1 (ii) Be held by the Commissioner to secure the same obligations as are
2 required to be secured by a bond under subsection (b) of this section.

3 (2) At any time, a licensee may exchange deposited permissible investments
4 for other permissible investments that meet the requirements of this subsection.

5 (3) The Commissioner may sell or transfer deposited permissible
6 investments and dispose of their proceeds only on the order of a court of competent
7 jurisdiction.

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

10 (5) The Commissioner may place the deposited permissible investments in
11 the custody of any qualified trust company or national banking association in this State.
12 The licensee shall pay the compensation of this custodian.

13 (d) (1) The amount of the bond to be filed with the Commissioner or the fair
14 market value of the permissible investments to be deposited with the Commissioner shall
15 be in an amount of not less than \$100,000 plus an additional amount of not less than
16 \$10,000 for each agent of the licensee, but in no event shall the bond or fair market value
17 of permissible investments exceed \$350,000, as set by the Commissioner.

18 (2) In setting the amount of the bond, the Commissioner shall consider:

19 (i) The financial condition of the applicant;

20 (ii) The number of places of business at which the applicant will be
21 [selling payment instruments or traveler's checks] TRANSMITTING MONEY; and

22 (iii) The potential loss of buyers and holders of payment instruments
23 [or traveler's checks] OR PERSONS FOR WHOM OR TO WHOM MONEY IS
24 TRANSMITTED if the applicant becomes financially impaired.

25 (e) (1) If the principal amount of a bond is reduced by a payment of a claim or
26 judgment, the licensee shall file with the Commissioner any new or additional bond in the
27 amount that the Commissioner sets.

28 (2) If the Commissioner at any time believes that the bond filed or
29 permissible investments deposited under this section are insecure, exhausted, or
30 otherwise unsatisfactory, the Commissioner may require an additional bond to be filed or
31 additional or substitute permissible investments to be deposited by the licensee. Within
32 30 days after the Commissioner makes a written demand for the new bond or permissible
33 investments, the licensee shall file the new bond or deposit the new permissible
34 investments.

35 12-411.

36 (a) Each agent that a licensee names under a license is the designated agent of
37 the licensee for all purposes in connection with the licensee's business under that license.
38 ANY VIOLATION OF THIS SUBTITLE BY ANY AGENT OF A LICENSEE SHALL BE
39 DEEMED TO BE THE RESPONSIBILITY OF THE LICENSEE.

1 (b) [Each licensee shall pay to the Commissioner, as provided in this section, an
 2 annual agent fee of \$4 for each agent of the licensee who is not a person exempted from
 3 the licensing provisions of this subtitle by § 12-402 of this subtitle.] EACH AGENT THAT
 4 A LICENSEE NAMES UNDER A LICENSE SHALL BE AUTHORIZED BY AN EXPRESS
 5 WRITTEN CONTRACT, WHICH, FOR CONTRACTS ENTERED INTO AFTER OCTOBER 1,
 6 1997, SHALL PROVIDE THE FOLLOWING:

7 (1) THAT THE LICENSEE APPOINTS THE PERSON AS ITS AGENT WITH
 8 AUTHORITY TO ENGAGE IN THE BUSINESS OF MONEY TRANSMISSION ON BEHALF OF
 9 THE LICENSEE;

10 (2) THAT NEITHER THE LICENSEE NOR THE AGENT MAY AUTHORIZE
 11 SUBAGENTS WITHOUT WRITTEN CONSENT OF THE COMMISSIONER; AND

12 (3) THAT THE AGENT IS SUBJECT TO SUPERVISION AND REGULATION
 13 BY THE COMMISSIONER.

14 (c) [With the application for a new license, the applicant shall pay for that license
 15 year the required agent fee for each agent who is named in the application and for whom
 16 a fee is required under subsection (b) of this section.] COPIES OF ALL SUCH
 17 CONTRACTS SHALL BE MADE AVAILABLE TO THE COMMISSIONER, UPON REQUEST.

18 (d) (1) On or before JANUARY 10 AND July 10 of each year, each licensee shall
 19 file with the Commissioner a report that:

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

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

22 (2) [This report] THE REPORTS shall include, as of [July 1] THE
 23 PRECEDING DECEMBER 31 OR JUNE 30, RESPECTIVELY [of that year]:

24 (I) AN ALPHABETICAL LISTING OF ALL AGENTS OF THE LICENSEE,
 25 INCLUDING NAME, BUSINESS ADDRESS, NATURE OF BUSINESS, AND DATE OF
 26 APPOINTMENT OF EACH AGENT;

27 [(i)] (II) The name, business address, nature of business, and date of
 28 appointment of each new agent appointed by the licensee [since December 1 of the
 29 preceding year] DURING THE PREVIOUS 6 MONTHS; [and]

30 [(ii)] (III) The name of any agent whose agency has been canceled by
 31 the licensee [since December 1 of the preceding year] DURING THE PREVIOUS 6
 32 MONTHS; AND

33 (IV) ANY OTHER INFORMATION THAT THE COMMISSIONER
 34 REQUIRES.

35 [(3) With this report, the licensee shall pay, for the current license year, the
 36 required agent fee for each new agent who is named in the report and for whom a fee is
 37 required under subsection (b) of this section and for whom a fee has not been paid
 38 already.

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1 (e) (1) On or before December 10 of each year, each licensee shall file with the
2 Commissioner a report that:

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

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

5 (2) This report shall include, as of December 1 of that year:

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

9 (ii) Any other information that the Commissioner requires.

10 (3) With this report, the licensee shall pay, for the current license year, the
11 required agent fee for each new agent who was appointed by the licensee since July 1 of
12 that year for whom a fee is required under subsection (b) of this section and for whom a
13 fee has not been paid already.

14 (4) With the application for a renewal license, the licensee shall pay, for the
15 renewal license year, the required agent fee for each agent who is named in the report for
16 whom a fee is required under subsection (b) of this section.]

17 12-412.

18 (a) A licensee may not change the place of business for which a license is issued
19 unless the licensee[:

20 (1) Notifies]notifies the Commissioner in writing of the proposed change [;
21 and

22 (2) Receives the written consent of the Commissioner.

23 (b) If the Commissioner consents to the proposed change of place of business, the
24 licensee shall attach the written consent to the license].

25 12-413.

26 (a) [At] WITHIN 45 DAYS OF the end of each [quarter] CALENDAR
27 SEMIANNUAL PERIOD for which the licensee does not file an audited financial
28 statement, the licensee shall file WITH THE COMMISSIONER a report that includes [for
29 that quarter]:

30 (1) An unaudited, unconsolidated statement of income and a statement of
31 the condition of the licensee;

32 (2) A schedule of the permissible investments that the licensee holds as
33 required under §12-414 of this subtitle; and

34 (3) A statement of outstanding payment instruments [or outstanding
35 traveler's checks].

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

4 (1) Contains the information that the Commissioner requires about the
5 business of the licensee during the previous license year;

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

7 (3) Is signed and verified by the licensee.

8 (c) (1) If a buyer or holder of a payment instrument or [traveler's check]
9 PERSON FOR WHOM OR TO WHOM MONEY IS TRANSMITTED brings an action against a
10 licensee, the licensee shall:

11 (i) Notify the Commissioner of the action by certified mail, return
12 receipt requested, bearing a postmark from the United States Postal Service, within 10
13 days after the action is begun; and

14 (ii) Include in the notice details sufficient to identify the action.

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

16 (i) Notify the Commissioner of the judgment by registered mail within
17 10 days after judgment is entered; and

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

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

20 (i) Notify the Commissioner of the payment by registered mail within
21 10 days after the payment is made; and

22 (ii) Include in the notice details sufficient to identify the buyer or
23 holder of the payment instrument or [traveler's check] PERSON FOR WHOM OR TO
24 WHOM MONEY IS TRANSMITTED and the claim or judgment paid.

25 12-414.

26 (a) [(1)] Each person licensed to [issue or sell payment instruments] TRANSMIT
27 MONEY shall have at all times permissible investments with a book or market value,
28 whichever is greater, that at least equals the total of the outstanding [payment
29 instruments] MONEY TRANSMISSIONS.

30 [(2) Each person licensed to issue or sell traveler's checks shall have at all
31 times permissible investments with a book or market value, whichever is greater, that at
32 least equals the total of the outstanding traveler's checks.]

33 (b) A licensee shall require each agent to:

34 (1) Hold in trust from the moment of receipt the proceeds of a [sale or
35 delivery of the licensee's payment instruments and traveler's checks] MONEY
36 TRANSMISSION. An agent may not commingle the proceeds with his own property or
37 funds, except to use the funds in the ordinary course of its business for the purpose of
38 making change and cashing instruments, and except to remit the proceeds to the licensee

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1 in an amount equal to that due the licensee as a result of [the sale of payment
2 instruments or traveler's checks] MONEY TRANSMISSIONS by the agent or subagent. If
3 any agent of a licensee commingles any proceeds received from [the sale of the
4 instruments issued] MONEY TRANSMISSIONS by the licensee with any other funds or
5 property owned or controlled by the agent, all commingled proceeds and other property
6 shall be impressed with a trust in favor of such licensee in an amount equal to the amount
7 of the proceeds due the licensee from [the sale of payment instruments and traveler's
8 checks] MONEY TRANSMISSIONS less the amount due the agent from the sale.

9 (2) Within 48 hours of the next regular business day after the agent receives
10 the money, remit the money to the licensee or the licensee's authorized representative, or
11 deposit the money in the licensee's account with a financial institution.

12 (c) Deposit by the agent in an account with a financial institution of funds in
13 advance of [the sale of the payment instruments] MONEY TRANSMISSIONS, but in an
14 amount not less than the amount that the agent would normally receive from [the sales of
15 payment instruments] MONEY TRANSMISSIONS, constitutes compliance with this section.

16 12-415.

17 (a) The original buyer of a payment instrument [or traveler's check] may request
18 a duplicate of the instrument [or check] if the request is:

19 (1) In writing; and

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

21 (i) An affidavit that gives the reason for the request and states the
22 facts relating to the loss of or other failure to produce the original payment instrument
23 [or traveler's check]; and

24 (ii) A personal indemnity bond or, if the total amount of the payment
25 instruments [or traveler's checks] for which a duplicate is requested is \$50 or more, a
26 lost instrument corporate bond instead of a personal indemnity bond.

27 (b) Each licensee shall issue or refuse to issue a duplicate payment instrument
28 [or traveler's check] within 30 days after a request for the duplicate is made under this
29 section.

30 12-416.

31 Except as permitted by § 17-308.1 of the Commercial Law Article, a licensee may
32 not charge a service fee to any original buyer who redeems an unused payment instrument
33 [or traveler's check].

34 12-418.

35 (a) A licensee may surrender a license by sending to the Commissioner a written
36 statement that the license is surrendered. THE STATEMENT SHALL INCLUDE A LISTING,
37 BY IDENTIFYING NUMBER, FACE AMOUNT, AND PLACE OF ISSUE, OF ALL
38 OUTSTANDING PAYMENT INSTRUMENTS.

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

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

3 (2) Affect the bond filed or permissible investments deposited by the
4 licensee; or

5 (3) Entitle the licensee to the return of any part of any [license or agent]
6 fee.

7 12-419.

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

10 (1) Any licensee;

11 (2) Any person who is engaged or participating in the business of [issuing or
12 selling payment instruments or traveler's checks] TRANSMITTING MONEY, whether as
13 principal, agent, or otherwise; and

14 (3) Any other person who the Commissioner has cause to believe is violating
15 this subtitle, whether that person claims to be within or beyond the scope of this subtitle.

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

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

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

21 12-420.

22 (a) Subject to the hearing provisions of § 12-421 of this subtitle, the
23 Commissioner may suspend or revoke the license of any licensee who violates any
24 provision of this subtitle.

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

27 (C) (1) THE COMMISSIONER MAY ENFORCE THE PROVISIONS OF THIS
28 SUBTITLE BY ISSUING AN ORDER:

29 (I) TO CEASE AND DESIST FROM THE VIOLATION AND ANY
30 FURTHER SIMILAR VIOLATIONS; AND

31 (II) REQUIRING THE VIOLATOR TO TAKE AFFIRMATIVE ACTION
32 TO CORRECT THE VIOLATION INCLUDING THE RESTITUTION OF MONEY OR
33 PROPERTY TO ANY PERSON AGGRIEVED BY THE VIOLATION.

34 (2) IF A VIOLATOR FAILS TO COMPLY WITH AN ORDER ISSUED UNDER
35 PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSIONER MAY IMPOSE A CIVIL
36 PENALTY OF UP TO \$1,000 FOR EACH VIOLATION FROM WHICH THE VIOLATOR
37 FAILED TO CEASE AND DESIST OR FOR WHICH THE VIOLATOR FAILED TO TAKE
38 AFFIRMATIVE ACTION.

13

1 (D) THE COMMISSIONER MAY FILE A PETITION IN THE CIRCUIT COURT FOR
2 ANY COUNTY SEEKING ENFORCEMENT OF AN ORDER ISSUED UNDER THIS SECTION.

3 (E) IN DETERMINING THE AMOUNT OF FINANCIAL PENALTY TO BE IMPOSED
4 UNDER SUBSECTION (C) OF THIS SECTION, THE COMMISSIONER SHALL CONSIDER
5 THE FOLLOWING:

6 (1) THE SERIOUSNESS OF THE VIOLATION;

7 (2) THE GOOD FAITH OF THE VIOLATOR;

8 (3) THE VIOLATOR'S HISTORY OF PREVIOUS VIOLATIONS;

9 (4) THE DELETERIOUS EFFECT OF THE VIOLATION ON THE PUBLIC;

10 (5) THE ASSETS OF THE VIOLATOR; AND

11 (6) ANY OTHER FACTORS RELEVANT TO THE DETERMINATION OF THE
12 FINANCIAL PENALTY.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 1997.