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

Introduced and read first time: January 27, 1997

Rule 32(e) suspended

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 7, 1997

CHAPTER _____

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.

2

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

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

4 (D) "MONEY TRANSMISSION" MEANS THE SALE OR ISSUANCE OF PAYMENT
5 INSTRUMENTS, OR ENGAGING IN THE BUSINESS OF RECEIVING MONEY FOR
6 TRANSMISSION OR TRANSMITTING MONEY WITHIN THE UNITED STATES OR TO
7 LOCATIONS ABROAD BY ANY MEANS, INCLUDING, BUT NOT LIMITED TO, PAYMENT
8 INSTRUMENTS, WIRE, FACSIMILE, OR ELECTRONIC TRANSFER.

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

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

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

15 (i) Negotiable; or

16 (ii) Sold to one or more persons.

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

18 (i) A traveler's check;

19 (ii) An instrument that the issuer may redeem in merchandise or
20 services;

21 (iii) A letter of credit; or

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

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

29 (1) Cash;

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

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

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

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

3

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

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

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

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

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

16 (1) Is a multiple of any denomination;

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

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

21 12-402.

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

23 (1) Any banking institution;

24 (2) Any national banking association;

25 (3) Any credit union;

26 (4) Any savings and loan association;

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

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

30 (7) (6) The sale of payment instruments [or traveler's checks] by any
31 person on behalf of any other person who is exempted by this subsection, if the payment
32 instruments [or traveler's checks] were received from the other person under a trust
33 receipt for the specific purpose of sale; [or

34 (8)] (7) Any other-state bank having a branch in this State[.]; OR

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

4

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

3 12-404.

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

6 (1) Is licensed by the Commissioner;

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

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

10 12-406.

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

13 (2) The application shall include:

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

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

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

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

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

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

25 (2) The statement shall:

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

28 (ii) Be audited and certified by an independent certified public
29 accountant; and

30 (iii) Include a schedule of all of the permissible investments of the
31 applicant.

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

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

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

35 (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) (1) A LICENSE ISSUED ON OR BEFORE SEPTEMBER 30, 1997 EXPIRES ON
 24 DECEMBER 31 OF THE YEAR IN WHICH IT WAS ISSUED, UNLESS IT IS RENEWED FOR A
 25 2-YEAR TERM AS PROVIDED IN THIS SECTION.

26 (2) A license ISSUED ON OR AFTER OCTOBER 1, 1997 expires on [the]
 27 December 31 IN EACH ODD-NUMBERED YEAR after [its effective date] DECEMBER 31,
 28 1997, unless it is renewed for a [1-year] 2-YEAR term as provided in this section.

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

32 (1) Otherwise is entitled to be licensed;

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

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

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

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1 (5)] (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) of this subtitle.

6 12-410.

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

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

14 (2) The surety bond shall be:

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

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

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

24 (4) The liability of a surety:

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

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

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

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

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

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

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

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

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

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

15 (d) (1) The amount of the bond to be filed with the Commissioner or the fair
16 market value of the permissible investments to be deposited with the Commissioner shall
17 be in an amount of not less than \$100,000 plus an additional amount of not less than
18 \$10,000 for each agent of the licensee, but in no event shall the bond or fair market value
19 of permissible investments exceed \$350,000, as set by the Commissioner.

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

21 (i) The financial condition of the applicant;

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

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

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

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

37 12-411.

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

1 ~~DEEMED TO BE THE RESPONSIBILITY OF THE LICENSEE~~ EACH LICENSEE UNDER
2 THIS SUBTITLE IS LIABLE FOR THE PAYMENT OF ALL MONEY TRANSMITTED AND
3 PAYMENT INSTRUMENTS SOLD BY THE LICENSEE, IN WHATEVER FORM, DIRECTLY
4 OR THROUGH AN AGENT.

5 (b) [Each licensee shall pay to the Commissioner, as provided in this section, an
6 annual agent fee of \$4 for each agent of the licensee who is not a person exempted from
7 the licensing provisions of this subtitle by § 12-402 of this subtitle.] EACH AGENT THAT
8 A LICENSEE NAMES UNDER A LICENSE SHALL BE AUTHORIZED BY AN EXPRESS
9 WRITTEN CONTRACT, WHICH, FOR CONTRACTS ENTERED INTO AFTER OCTOBER 1,
10 1997, SHALL PROVIDE THE FOLLOWING:

11 (1) THAT THE LICENSEE APPOINTS THE PERSON AS ITS AGENT WITH
12 AUTHORITY TO ENGAGE IN THE BUSINESS OF MONEY TRANSMISSION ON BEHALF OF
13 THE LICENSEE;

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

16 (3) THAT THE AGENT IS SUBJECT TO SUPERVISION AND REGULATION
17 BY THE COMMISSIONER.

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

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

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

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

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

28 (I) AN ALPHABETICAL LISTING OF ALL AGENTS OF THE LICENSEE,
29 INCLUDING NAME, BUSINESS ADDRESS, NATURE OF BUSINESS, AND DATE OF
30 APPOINTMENT OF EACH AGENT;

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

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

37 (IV) ANY OTHER INFORMATION THAT THE COMMISSIONER
38 REQUIRES.

9

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

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

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

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

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

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

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

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

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

21 12-412.

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

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

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

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

29 12-413.

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

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

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

10

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

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

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

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

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

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

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

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

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

18 (i) Notify the Commissioner of the judgment by registered mail within
19 10 days after judgment is entered; and

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

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

22 (i) Notify the Commissioner of the payment by registered mail within
23 10 days after the payment is made; and

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

27 12-414.

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

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

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

36 (1) Hold in trust from the moment of receipt the proceeds of a [sale or
37 delivery of the licensee's payment instruments and traveler's checks] MONEY

11

1 TRANSMISSION. An agent may not commingle the proceeds with his own property or
2 funds, except to use the funds in the ordinary course of its business for the purpose of
3 making change and cashing instruments, and except to remit the proceeds to the licensee
4 in an amount equal to that due the licensee as a result of [the sale of payment
5 instruments or traveler's checks] MONEY TRANSMISSIONS by the agent or subagent. If
6 any agent of a licensee commingles any proceeds received from [the sale of the
7 instruments issued] MONEY TRANSMISSIONS by the licensee with any other funds or
8 property owned or controlled by the agent, all commingled proceeds and other property
9 shall be impressed with a trust in favor of such licensee in an amount equal to the amount
10 of the proceeds due the licensee from [the sale of payment instruments and traveler's
11 checks] MONEY TRANSMISSIONS less the amount due the agent from the sale.

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

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

19 12-415.

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

22 (1) In writing; and

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

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

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

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

33 12-416.

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

37 12-418.

38 (a) A licensee may surrender a license by sending to the Commissioner a written
39 statement that the license is surrendered. THE STATEMENT SHALL INCLUDE A LISTING,

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1 BY IDENTIFYING NUMBER, FACE AMOUNT, AND PLACE OF ISSUE, OF ALL
2 OUTSTANDING PAYMENT INSTRUMENTS.

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

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

6 (2) Affect the bond filed or permissible investments deposited by the
7 licensee; or

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

10 12-419.

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 of:

13 (1) Any licensee;

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

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

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

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

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

24 12-420.

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

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

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

32 (I) TO CEASE AND DESIST FROM THE VIOLATION AND ANY
33 FURTHER SIMILAR VIOLATIONS; AND

34 (II) REQUIRING THE VIOLATOR TO TAKE AFFIRMATIVE ACTION
35 TO CORRECT THE VIOLATION INCLUDING THE RESTITUTION OF MONEY OR
36 PROPERTY TO ANY PERSON AGGRIEVED BY THE VIOLATION.

13

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

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

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

11 (1) THE SERIOUSNESS OF THE VIOLATION;

12 (2) THE GOOD FAITH OF THE VIOLATOR;

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

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

15 (5) THE ASSETS OF THE VIOLATOR; AND

16 (6) ANY OTHER FACTORS RELEVANT TO THE DETERMINATION OF THE
17 FINANCIAL PENALTY.

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