

HOUSE BILL 715

Unofficial Copy
II

2002 Regular Session
(2r1240)

ENROLLED BILL
-- Commerce and Government Matters/Finance --

Introduced by **Delegate Wood**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

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

1 this Act; authorizing the Commissioner to conduct an on-site examination of a
2 licensee and suspend or revoke a license under certain circumstances;
3 authorizing the Commissioner to take certain actions to enforce the provisions of
4 this Act; providing for certain notice and hearing requirements under certain
5 circumstances; providing certain criminal penalties for a violation of this Act;
6 establishing a certain short title; defining certain terms; making stylistic
7 changes; and generally relating to the Maryland Money Transmission Act.

8 BY repealing and reenacting, with amendments,
9 Article - Financial Institutions
10 Section 12-401 through 12-411, inclusive, 12-413 through 12-421, inclusive,
11 and 12-423 to be under the amended subtitle "Subtitle 4. Maryland Money
12 Transmission Act"
13 Annotated Code of Maryland
14 (1998 Replacement Volume and 2001 Supplement)

15 BY adding to
16 Article - Financial Institutions
17 Section 12-404, 12-408, 12-414, 12-415, 12-417, 12-424, 12-425, 12-427,
18 12-430, and 12-431
19 Annotated Code of Maryland
20 (1998 Replacement Volume and 2001 Supplement)

21 BY repealing
22 Article - Financial Institutions
23 Section 12-412, 12-422, and 12-424
24 Annotated Code of Maryland
25 (1998 Replacement Volume and 2001 Supplement)

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

28 **Article - Financial Institutions**

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

31 12-401.

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

33 (B) (1) "ACCELERATED MORTGAGE PAYMENT SERVICE" MEANS THE
34 SERVICE OF RECEIVING FUNDS FROM A MORTGAGOR FOR THE PURPOSE OF MAKING
35 MORTGAGE PAYMENTS TO A MORTGAGEE ON BEHALF OF THE MORTGAGOR IN
36 ORDER TO EXCEED THE REGULARLY SCHEDULED MINIMUM PAYMENT OBLIGATION
37 UNDER THE TERMS OF THE MORTGAGE.

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

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

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

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

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

17 (E) "CONTROL" MEANS:

18 (1) IF THE LICENSEE IS A CORPORATION:

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

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

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

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

28 (1) CASH;

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

33 (I) IS LOCATED IN THIS STATE OR MAINTAINS A BRANCH IN THIS
34 STATE; AND

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

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

1 (I) OBLIGATIONS OF OR GUARANTEED BY THE UNITED STATES, ITS
2 DEPARTMENTS, AGENCIES, OR INSTRUMENTALITIES, OR OBLIGATIONS OF ANY
3 STATE, TERRITORY, OR MUNICIPALITY OR ANY POLITICAL SUBDIVISION OF ANY
4 STATE, TERRITORY, OR MUNICIPALITY;

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

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

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

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

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

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

27 (J) "MATERIAL LITIGATION" MEANS LITIGATION THAT ACCORDING TO
28 GENERALLY ACCEPTED ACCOUNTING PRINCIPLES:

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

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

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

36 [(d)] (L) (1) "Money transmission" means [the sale or issuance of] THE
37 BUSINESS OF SELLING OR ISSUING payment instruments OR STORED VALUE
38 DEVICES, OR RECEIVING MONEY OR MONETARY VALUE, FOR TRANSMISSION TO A
39 LOCATION WITHIN OR OUTSIDE THE UNITED STATES BY ANY MEANS, [or engaging in

1 the business of receiving money for transmission or transmitting money within the
2 United States or to locations abroad by any means, including payment instruments,
3 wire, facsimile, or electronic transfer] INCLUDING ELECTRONICALLY OR THROUGH
4 THE INTERNET.

5 (2) "MONEY TRANSMISSION" INCLUDES:

6 (I) A BILL PAYER SERVICE;

7 (II) AN ACCELERATED MORTGAGE PAYMENT SERVICE; AND

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

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

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

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

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

25 (1) Cash;

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

30 (I) IS LOCATED IN THIS STATE OR MAINTAINS A BRANCH IN THIS
31 STATE; AND

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

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

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

4 (ii) Obligations of or obligations guaranteed by the United States,
5 any state, or any of their agencies or instrumentalities;] OBLIGATIONS OF OR
6 GUARANTEED BY THE UNITED STATES, ITS DEPARTMENTS, AGENCIES, OR
7 INSTRUMENTALITIES, OR OBLIGATIONS OF ANY STATE, TERRITORY, OR
8 MUNICIPALITY OR ANY POLITICAL SUBDIVISION OF ANY STATE, TERRITORY, OR
9 MUNICIPALITY;

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

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

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

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

32 [(4)] (5) Any other investment that the Commissioner approves.

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

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

37 (II) THAT IS PREFUNDED; AND

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

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

4 (Q) "SURETY DEVICE" MEANS:

5 (1) A SURETY BOND; OR

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

7 12-402.

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

9 (1) Any banking institution;

10 (2) ANY OTHER-STATE BANK;

11 [(2)] (3) Any national banking association OR SAVINGS BANK;

12 [(3)] (4) Any credit union;

13 [(4)] (5) Any savings and loan association;

14 [(5)] (6) The United States government or any of its departments, [or]
15 agencies, OR INSTRUMENTALITIES;

16 [(6)] (7) The sale of payment instruments by any person on behalf of any
17 other person who is exempted by this subsection, if the payment instruments were
18 received from the other person under a trust receipt for the specific purpose of sale;

19 [(7)] (8) [Any other-state bank having a branch in this State;] THE
20 PROVISION OF ELECTRONIC TRANSFER OF GOVERNMENT BENEFITS FOR ANY
21 FEDERAL, STATE, OR COUNTY GOVERNMENTAL AGENCY AS DEFINED IN FEDERAL
22 RESERVE BOARD REGULATION E, BY A CONTRACTOR FOR AND ON BEHALF OF THE
23 UNITED STATES OR ANY OF ITS DEPARTMENTS, AGENCIES, OR INSTRUMENTALITIES,
24 OR ANY STATE OR ANY POLITICAL SUBDIVISION OF ANY STATE; or

25 [(8)] (9) Any [agent] AUTHORIZED DELEGATE of a licensee, acting
26 within the scope of authority conferred by a written contract as described in § 12-413
27 OF this subtitle.

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

30 12-403.

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

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

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

6 (3) PROVIDE ANY FEDERAL OR STATE AGENCY HAVING SUPERVISORY
7 RESPONSIBILITY OVER MONEY TRANSMISSION WITH ANY DOCUMENTS OR OTHER
8 INFORMATION.

9 12-404.

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

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

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

15 (2) INCOME FROM THE INVESTMENTS THAT THE STATE TREASURER
16 MAKES FOR THE FUND; AND

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

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

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

25 (1) EXPENDITURES AUTHORIZED UNDER THIS SUBTITLE; AND

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

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

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

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

34 (II) BY THE BUDGET AMENDMENT PROCEDURE PROVIDED FOR IN §
35 7-209 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

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

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

7 (2) THE STATE TREASURER SHALL DEPOSIT PAYMENTS RECEIVED FROM
8 THE COMMISSIONER INTO THE FUND.

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

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

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

15 (II) A SPECIAL FUND OF THE STATE.

16 [12-404.] 12-405.

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

21 (1) Is licensed by the Commissioner;

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

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

25 [12-405.] 12-406.

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

28 [(1) Is trustworthy and reputable;

29 (2) Has a good business reputation;

30 (3) Has sufficient business experience;

31 (4) Will keep at all times the permissible investments required under §
32 12-414 of this subtitle; and

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

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

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

6 (II) WARRANT THE BELIEF THAT THE BUSINESS OF MONEY
7 TRANSMISSION WILL BE CONDUCTED LAWFULLY, HONESTLY, FAIRLY, AND
8 EFFICIENTLY; AND

9 (III) COMMAND THE CONFIDENCE OF THE PUBLIC;

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

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

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

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

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

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

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

30 (1) THE NATURE AND VOLUME OF THE BUSINESS OR PROPOSED
31 BUSINESS OF THE APPLICANT;

32 (2) THE AMOUNT, NATURE, QUALITY, AND LIQUIDITY OF THE ASSETS OF
33 THE APPLICANT;

34 (3) THE AMOUNT AND NATURE OF THE LIABILITIES, INCLUDING
35 CONTINGENT LIABILITIES, OF THE APPLICANT;

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

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

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

5 (7) THE NATURE AND QUALITY OF THE PERSON THAT HAS CONTROL OF
6 THE APPLICANT; AND

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

8 [12-406.] 12-407.

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

12 [(2)] The application shall include:

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

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

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

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

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

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

24 (2) The statement shall:

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

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

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

31 (B) AN APPLICANT SHALL PROVIDE:

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

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

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

9 (4) THE MOST RECENT UNCONSOLIDATED FINANCIAL STATEMENT OF
10 THE APPLICANT THAT SHALL:

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

13 (II) BE A CERTIFIED OPINION AUDIT PREPARED BY AN
14 INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT;

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

17 (IV) BE NO OLDER THAN 12 MONTHS BEFORE THE DATE OF THE
18 APPLICATION;

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

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

23 (7) ANY OTHER INFORMATION THAT THE COMMISSIONER REASONABLY
24 REQUIRES.

25 (C) IF THE APPLICANT IS A SOLE PROPRIETORSHIP, THE APPLICANT ALSO
26 SHALL PROVIDE:

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (2) A license fee of either:

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

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

26 (iii) \$400 if the applicant applies for the license on or after October
27 1, 1997 and on or before December 31, 1997.]

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

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

33 (i) Submit a separate application; AND

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

1 (iii)] Pay a separate license fee.

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

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

8 12-408.

9 (A) THIS SECTION DOES NOT APPLY TO ANY CORPORATION THE SECURITIES
10 OF WHICH ARE EXEMPT FROM REGISTRATION UNDER § 11-601 (8) OR (12) OF THE
11 CORPORATIONS AND ASSOCIATIONS ARTICLE OR ANY WHOLLY OWNED SUBSIDIARY
12 OF THE CORPORATION.

13 (B) IN CONNECTION WITH AN INITIAL APPLICATION, A RENEWAL
14 APPLICATION, A SPECIAL INVESTIGATION, AND AT ANY OTHER TIME THE
15 COMMISSIONER REQUESTS, AN APPLICANT OR LICENSEE SHALL PROVIDE
16 FINGERPRINTS FOR USE BY THE FEDERAL BUREAU OF INVESTIGATION AND THE
17 MARYLAND CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF
18 THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES TO CONDUCT
19 CRIMINAL HISTORY RECORDS CHECKS.

20 (C) AN APPLICANT OR LICENSEE REQUIRED UNDER THIS SECTION TO
21 PROVIDE FINGERPRINTS SHALL PAY ANY PROCESSING FEE REQUIRED BY THE
22 FEDERAL BUREAU OF INVESTIGATION OR THE MARYLAND CRIMINAL JUSTICE
23 INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC
24 SAFETY AND CORRECTIONAL SERVICES.

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

29 [12-407.] 12-409.

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

37 (b) (1) [THE] UNLESS THE COMMISSIONER NOTIFIES THE APPLICANT THAT
38 A DIFFERENT TIME PERIOD IS NECESSARY, THE Commissioner shall approve or deny
39 each application for a license within 60 days after the date [when the application and

1 financial statement is filed, the bond is filed or permissible investments are
2 deposited, and the fees are paid] A COMPLETE APPLICATION IS FILED.

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

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

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

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

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

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

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

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

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

23 (v) Keep the investigation fee.

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

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

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

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

32 [12-408.] 12-410.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 "THE COMMISSIONER OF FINANCIAL REGULATION FOR THE STATE OF
27 MARYLAND WILL ACCEPT ALL QUESTIONS OR COMPLAINTS FROM MARYLAND
28 RESIDENTS REGARDING (NAME OF LICENSEE) AT (ADDRESS OF COMMISSIONER),
29 PHONE (TOLL-FREE PHONE NUMBER OF THE COMMISSIONER)".

30 [12-409.] 12-411.

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

1 [(2) A license issued on or after October 1, 1997 expires on December 31
2 in each odd-numbered year after December 31, 1997, unless it is renewed for a
3 2-year term as provided in this section.]

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

6 (1) Otherwise is entitled to be licensed;

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

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

12 (4) Submits to the Commissioner:

13 (i) A renewal application on the form that the Commissioner
14 requires; and

15 (ii) A financial statement that complies with the requirements of [§
16 12-406(b)(2)] § 12-407(B)(4) of this subtitle.

17 [12-410.] 12-412.

18 (A) IN THIS SECTION, "TRUST COMPANY" HAS THE MEANING STATED IN §
19 1-101 OF THE ESTATES AND TRUSTS ARTICLE.

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

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

31 (2) The surety bond shall be:

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

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

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

11 (4) The liability of a surety:

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

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

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

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

27 (i) Have a market value equal to the amount required [by]
28 subsection [(d)] (E) of this section; and

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

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

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

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

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

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

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

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

14 (i) The financial condition of the LICENSEE OR applicant;

15 (ii) [The number of places of business at which the applicant will be
16 transmitting money;] FOR A LICENSEE, THE AVERAGE MONTHLY OUTSTANDING
17 PAYMENT INSTRUMENTS OR OUTSTANDING MONEY TRANSMISSION LIABILITY FOR
18 THE PREVIOUS 12 MONTHS;

19 (III) FOR AN APPLICANT, THE PROJECTED MONTHLY PAYMENT
20 INSTRUMENT SALES AND MONEY TRANSMISSION VOLUME IN THE STATE, THE
21 BUSINESS EXPERIENCE, AND ANY OTHER FACTOR DEEMED APPROPRIATE; and

22 [(iii)] (IV) The potential loss of buyers and holders of payment
23 instruments or persons for whom or to whom money is transmitted if the applicant OR
24 LICENSEE becomes financially impaired.

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

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

37 (G) A PENALTY IMPOSED UNDER § ~~12-426(E)(3)~~ 12-426(E)(2) OF THIS SUBTITLE
38 MAY BE PAID AND COLLECTED FROM THE PROCEEDS OF A SURETY DEVICE.

1 [12-411.] 12-413.

2 (a) Each [agent] AUTHORIZED DELEGATE that a licensee [names] APPOINTS
3 under a license is the designated agent of the licensee for all purposes in connection
4 with the licensee's business under that license. Each licensee under this subtitle is
5 liable for the payment of all money transmitted and payment instruments sold by the
6 licensee, in whatever form, directly or through an [agent] AUTHORIZED DELEGATE.

7 (b) Each [agent] AUTHORIZED DELEGATE that a licensee [names] APPOINTS
8 under a license shall be authorized by an express written contract, which [, for
9 contracts entered into after October 1, 1997,] shall provide [the following]:

10 (1) That the licensee appoints the person as its [agent] AUTHORIZED
11 DELEGATE with authority to engage in the business of money transmission on behalf
12 of the licensee;

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

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

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

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

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

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

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

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

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

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

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

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

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

4 [12-412.

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

7 12-414.

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

10 (B) ALL MONEY TRANSMISSION SERVICES CONDUCTED BY AN AUTHORIZED
11 DELEGATE SHALL BE CONDUCTED STRICTLY IN ACCORDANCE WITH THE LICENSEE'S
12 OPERATING POLICIES AND PROCEDURES PROVIDED TO THE AUTHORIZED
13 DELEGATE.

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

17 (D) (1) ALL FUNDS RECEIVED BY AN AUTHORIZED DELEGATE FROM THE
18 SALE OF A PAYMENT INSTRUMENT, LESS FEES, SHALL CONSTITUTE TRUST FUNDS
19 BELONGING TO THE LICENSEE FROM THE TIME THE FUNDS ARE RECEIVED BY THE
20 AUTHORIZED DELEGATE UNTIL THE TIME WHEN THE FUNDS ARE REMITTED TO THE
21 LICENSEE.

22 (2) IF AN AUTHORIZED DELEGATE COMMINGLES ANY OF THE FUNDS
23 RECEIVED WITH ANY OTHER FUNDS OR PROPERTY OWNED OR CONTROLLED BY THE
24 AUTHORIZED DELEGATE, ALL COMMINGLED ~~PROCEEDS FUNDS~~ AND OTHER
25 PROPERTY SHALL BE IMPRESSED WITH A TRUST IN FAVOR OF THE LICENSEE IN AN
26 AMOUNT EQUAL TO THE AMOUNT OF THE ~~PROCEEDS FUNDS~~ DUE THE LICENSEE.

27 (E) AN AUTHORIZED DELEGATE SHALL REPORT TO THE LICENSEE THE THEFT
28 OR LOSS OF A PAYMENT INSTRUMENT WITHIN 24 HOURS AFTER THE THEFT OR LOSS.
29 12-415.

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

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

34 (II) RECEIVES THE APPROVAL OF THE COMMISSIONER.

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

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

8 (B) (1) A LICENSEE MAY NOT UNDERGO A CHANGE IN CONTROL UNLESS
9 THE LICENSEE:

10 (I) NOTIFIES THE COMMISSIONER IN WRITING OF THE PROPOSED
11 CHANGE;

12 (II) MAKES A WRITTEN REQUEST THAT THE COMMISSIONER
13 APPROVE THE PROPOSED CHANGE;

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

16 (IV) RECEIVES THE APPROVAL OF THE COMMISSIONER.

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

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

23 (I) WITHIN 60 DAYS AFTER THE DATE THE COMMISSIONER
24 RECEIVES THE REQUEST; OR

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

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

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

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

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

4 [12-413.]12-416.

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

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

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

15 (3) A statement of outstanding payment instruments;

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

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

21 (II) AN ALPHABETICAL LIST OF ALL AUTHORIZED DELEGATES
22 APPOINTED BY THE LICENSEE DURING THE PREVIOUS 6 MONTHS THAT INCLUDES
23 THE NAME, BUSINESS ADDRESS, BUSINESS PHONE NUMBER, BUSINESS E-MAIL
24 ADDRESS, IF KNOWN TO THE LICENSEE, AND DATE OF APPOINTMENT OF EACH
25 AUTHORIZED DELEGATE; AND

26 (III) AN ALPHABETICAL LIST OF ALL AUTHORIZED DELEGATES
27 TERMINATED BY THE LICENSEE DURING THE PREVIOUS 6 MONTHS THAT INCLUDES
28 THE NAME, BUSINESS ADDRESS, BUSINESS PHONE NUMBER, BUSINESS E-MAIL
29 ADDRESS, IF KNOWN TO THE LICENSEE, AND DATE OF TERMINATION OF EACH
30 AUTHORIZED DELEGATE; AND

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

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

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

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

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

3 (1) INCLUDES FINANCIAL STATEMENTS OF THE LICENSEE AUDITED BY
4 A CERTIFIED PUBLIC ACCOUNTANT AND PREPARED IN ACCORDANCE WITH
5 GENERALLY ACCEPTED ACCOUNTING PRINCIPLES FOR THE PREVIOUS CALENDAR
6 YEAR;

7 (2) STATES THE NUMBER AND AGGREGATE DOLLAR AMOUNT OF
8 PAYMENT INSTRUMENTS ISSUED OR SOLD AND THE AGGREGATE NUMBER AND
9 DOLLAR AMOUNT OF MONEY TRANSMISSIONS DURING THE PREVIOUS CALENDAR
10 YEAR;

11 (3) CONTAINS ANY OTHER INFORMATION THE COMMISSIONER
12 REASONABLY REQUIRES;

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

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

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

21 (I) THE FILING FOR BANKRUPTCY OR REORGANIZATION BY THE
22 LICENSEE;

23 (II) THE INSTITUTION OF REVOCATION OR SUSPENSION
24 PROCEEDINGS AGAINST THE LICENSEE BY ANY STATE OR GOVERNMENTAL
25 AUTHORITY WITH REGARD TO THE LICENSEE'S MONEY TRANSMISSION ACTIVITIES
26 IN ANY STATE;

27 (III) ANY FELONY INDICTMENT OR CONVICTION OF THE LICENSEE
28 OR ANY OF ITS OFFICERS OR DIRECTORS RELATED TO MONEY TRANSMISSION
29 ACTIVITIES;

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

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

35 (i) Notify]

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

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

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

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

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

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

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

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

18 (D) A LICENSEE PROMPTLY SHALL FILE WITH THE COMMISSIONER ANY
19 DEMAND BORROWING AGREEMENT OR AGREEMENTS INTO WHICH THE LICENSEE
20 MAY ENTER AS A PERMISSIBLE INVESTMENT OR A DEPOSIT IN LIEU OF A SURETY
21 BOND.

22 12-417.

23 A LICENSEE SHALL COMPLY WITH ALL FEDERAL AND STATE LAWS AND
24 REGULATIONS CONCERNING THE BUSINESS OF MONEY TRANSMISSION, MONEY
25 LAUNDERING, AND ABANDONED PROPERTY.

26 [12-414.] 12-418.

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

35 (2) THE REQUIREMENT IMPOSED UNDER PARAGRAPH (1) OF THIS
36 SUBSECTION MAY BE WAIVED BY THE COMMISSIONER IF THE DOLLAR VOLUME OF A

1 LICENSEE'S OUTSTANDING PAYMENT INSTRUMENTS DOES NOT EXCEED THE
2 SURETY DEVICE FILED IN ACCORDANCE WITH § 12-412 OF THIS SUBTITLE.

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

4 (1) Hold in trust from the moment of receipt the proceeds of a money
5 transmission. An agent may not commingle the proceeds with his own property or
6 funds, except to use the funds in the ordinary course of its business for the purpose of
7 making change and cashing instruments, and except to remit the proceeds to the
8 licensee in an amount equal to that due the licensee as a result of money
9 transmissions by the agent or subagent. If any agent of a licensee commingles any
10 proceeds received from money transmissions by the licensee with any other funds or
11 property owned or controlled by the agent, all commingled proceeds and other
12 property shall be impressed with a trust in favor of such licensee in an amount equal
13 to the amount of the proceeds due the licensee from money transmissions less the
14 amount due the agent from the sale.

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

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

24 [12-415.] 12-419.

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

27 (1) In writing; and

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

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

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

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

1 [12-416.] 12-420.

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

5 [12-417.] 12-421.

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

8 [(b) If the Commissioner finds that the books, records, and accounting
9 procedures of a licensee are not adequate to enable the Commissioner to determine
10 whether the licensee is in compliance with this subtitle, the Commissioner may
11 require the licensee to HAVE A CERTIFIED PUBLIC ACCOUNTANT AUDIT THE
12 LICENSEE FOR ANY PERIOD OF TIME THE COMMISSIONER CONSIDERS NECESSARY
13 OR adopt standard, recognized accounting and bookkeeping procedures and records
14 for this purpose.

15 [12-418.] 12-422.

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

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

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

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

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

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

27 [12-419.] 12-423.

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

31 (1) Any licensee;

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

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

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

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

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

9 (C) (1) IF A PERSON FAILS TO COMPLY WITH A SUBPOENA OR SUMMONS OF
10 THE COMMISSIONER UNDER THIS SUBTITLE OR TO TESTIFY CONCERNING ANY
11 MATTER ABOUT WHICH THE PERSON MAY BE INTERROGATED UNDER THIS
12 SUBTITLE, THE COMMISSIONER MAY FILE A PETITION FOR ENFORCEMENT WITH THE
13 CIRCUIT COURT FOR ANY COUNTY.

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

16 12-424.

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

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

22 (C) THE LICENSEE SHALL PAY ALL REASONABLY INCURRED COSTS OF AN
23 EXAMINATION.

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

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

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

32 (F) THE COMMISSIONER MAY:

33 (1) EXAMINE ALL BOOKS, ACCOUNTS, AND RECORDS THE
34 COMMISSIONER DETERMINES ARE NECESSARY TO CONDUCT A COMPLETE
35 EXAMINATION; AND

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

4 12-425.

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

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

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

11 (3) SETTLEMENT SHEETS RECEIVED FROM EACH AUTHORIZED
12 DELEGATE;

13 (4) BANK STATEMENTS AND BANK RECONCILIATION RECORDS;

14 (5) RECORDS OF OUTSTANDING PAYMENT INSTRUMENTS;

15 (6) RECORDS OF EACH PAYMENT INSTRUMENT PAID WITHIN THE
16 3-YEAR PERIOD; AND

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

19 (B) A LICENSEE SHALL RETAIN THE RECORDS REQUIRED UNDER THIS
20 SECTION IN:

21 (1) ORIGINAL FORM; OR

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

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

25 (1) NOTIFIES THE COMMISSIONER IN WRITING OF THE LOCATION OF
26 THE RECORDS; AND

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

31 [12-420.] 12-426.

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

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

4 (I) MAKES ANY MATERIAL MISSTATEMENT IN AN APPLICATION
5 FOR A LICENSE;

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

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

10 (IV) WILLFULLY FAILS TO MAKE A REPORT REQUIRED UNDER THIS
11 SUBTITLE;

12 (V) IS CONVICTED UNDER THE LAWS OF THE UNITED STATES OR
13 ANY STATE OF A FELONY OR A MISDEMEANOR THAT IS DIRECTLY RELATED TO THE
14 FITNESS AND QUALIFICATION OF THE PERSON TO ENGAGE IN THE BUSINESS OF
15 MONEY TRANSMISSION;

16 (VI) IN CONNECTION WITH ANY MONEY TRANSMISSION
17 TRANSACTION:

18 1. COMMITS A FRAUD;

19 2. ENGAGES IN AN ILLEGAL OR DISHONEST ACTIVITY; OR

20 3. MISREPRESENTS OR FAILS TO DISCLOSE A MATERIAL
21 FACT TO ~~ANYONE ENTITLED TO KNOW THAT INFORMATION A GOVERNMENTAL~~
22 AGENCY;

23 (VII) VIOLATES ANY PROVISION OF THIS SUBTITLE OR ANY
24 REGULATION ADOPTED UNDER THIS SUBTITLE, OR ANY OTHER LAW REGULATING
25 THE BUSINESS OF MONEY TRANSMISSION; OR

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

30 (2) THE LICENSEE:

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

34 (II) BECOMES INSOLVENT;

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

4 (IV) HAS APPLIED FOR AN ADJUDICATION OF BANKRUPTCY,
5 REORGANIZATION, ARRANGEMENT, OR OTHER RELIEF UNDER ANY BANKRUPTCY
6 PROCEEDING.

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

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

12 (1) THE NATURE OF THE CRIME;

13 (2) THE RELATIONSHIP OF THE CRIME TO THE ACTIVITIES AUTHORIZED
14 BY THE LICENSE;

15 (3) WITH RESPECT TO A FELONY, THE RELEVANCE OF THE CONVICTION
16 TO THE FITNESS AND QUALIFICATION OF THE LICENSEE TO ENGAGE IN THE
17 BUSINESS OF MONEY TRANSMISSION;

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

19 (5) THE BEHAVIOR AND ACTIVITIES OF THE LICENSEE SINCE THE
20 CONVICTION.

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

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

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

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

31 (III) HAS MADE OR CAUSED TO BE MADE IN ANY APPLICATION OR
32 REPORT FILED WITH THE COMMISSIONER OR IN A PROCEEDING BEFORE THE
33 COMMISSIONER, A STATEMENT WHICH WAS AT THE TIME AND IN THE
34 CIRCUMSTANCES UNDER WHICH IT WAS MADE, FALSE OR MISLEADING WITH
35 RESPECT TO A MATERIAL FACT, OR HAS OMITTED TO STATE IN AN APPLICATION OR
36 REPORT A MATERIAL FACT WHICH IS REQUIRED TO BE STATED; OR

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

3 (2) THE COMPETENCE, EXPERIENCE, INTEGRITY, FINANCIAL
4 CONDITION, OR OVERALL MORAL CHARACTER OF THE AUTHORIZED DELEGATE, OR A
5 DIRECTOR, OFFICER, EMPLOYEE, OR PERSON THAT HAS CONTROL OF THE
6 AUTHORIZED DELEGATE, INDICATES THAT IT WOULD NOT BE IN THE INTEREST OF
7 THE PUBLIC TO PERMIT THE PERSON TO ENGAGE IN THE BUSINESS OF MONEY
8 TRANSMISSION.

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

12 (2) THE COMMISSIONER MAY NOT GRANT AN APPLICATION FILED
13 UNDER PARAGRAPH (1) OF THIS SUBSECTION UNLESS THE COMMISSIONER FINDS
14 THAT:

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

17 (II) IT IS REASONABLE TO BELIEVE THAT THE AUTHORIZED
18 DELEGATE, IF AND WHEN PERMITTED TO RESUME ACTING AS AN AUTHORIZED
19 DELEGATE OF A LICENSEE, WILL COMPLY WITH ALL APPLICABLE PROVISIONS OF
20 THIS SUBTITLE AND ANY REGULATION ADOPTED OR ORDER ISSUED UNDER THIS
21 SUBTITLE.

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

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

26 (ii) Requiring the violator to take affirmative action to correct the
27 violation including the restitution of money or property to any person aggrieved by
28 the violation.

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

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

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

38 (1) The seriousness of the violation;

- 1 (2) The good faith of the violator;
- 2 (3) The violator's history of previous violations;
- 3 (4) The deleterious effect of the violation on the public;
- 4 (5) The assets of the violator; and
- 5 (6) Any other factors relevant to the determination of the financial
6 penalty.
- 7 12-427.

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

- 11 (1) IS NOT LICENSED UNDER THIS SUBTITLE; OR
- 12 (2) IS NOT AN AUTHORIZED DELEGATE OF A LICENSEE; ~~OR,~~
- 13 ~~(3) IS EXEMPT FROM LICENSING UNDER THIS SUBTITLE.~~

14 [12-421.] 12-428.

15 (a) Before the Commissioner denies an application for a license under [§
16 12-407] § 12-409 of this subtitle or takes any action under [§ 12-420]§ 12-426 of this
17 subtitle, the Commissioner shall give the applicant or licensee an opportunity for a
18 hearing.

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

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

25 [12-422.

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

29 [12-423.]12-429.

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

1 [12-424.

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

5 12-430.

6 ANY PERSON WHO KNOWINGLY AND WILLFULLY VIOLATES ANY PROVISION OF
7 THIS SUBTITLE IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO A FINE
8 NOT EXCEEDING \$1,000 FOR THE FIRST VIOLATION AND NOT EXCEEDING \$5,000 FOR
9 EACH SUBSEQUENT VIOLATION OR IMPRISONMENT NOT EXCEEDING 5 YEARS OR
10 BOTH.

11 12-431.

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

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