

SENATE BILL 774

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II

2002 Regular Session
2r1241
CF 2r1240

By: **Senator Bromwell**

Introduced and read first time: February 1, 2002

Assigned to: Finance

A BILL ENTITLED

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 establishing a certain Money Transmission Fund; specifying certain
6 qualifications for a licensee; requiring an applicant to provide certain
7 information, pay certain fees, file certain evidence of a surety device, and
8 provide fingerprints under certain circumstances; requiring the Commissioner
9 to investigate and approve or deny each applicant; requiring a licensee to
10 display a certain consumer protection notice; requiring a surety device to satisfy
11 certain requirements; imposing certain requirements and restrictions on an
12 authorized delegate of a licensee; requiring a licensee to file certain notices and
13 reports with the Commissioner; requiring a licensee to have certain permissible
14 investments; authorizing the Commissioner to investigate certain persons for
15 any violation of this Act; authorizing the Commissioner to conduct an on-site
16 examination of a licensee and suspend or revoke a license under certain
17 circumstances; authorizing the Commissioner to take certain actions to enforce
18 the provisions of this Act; providing for certain notice and hearing requirements
19 under certain circumstances; providing certain criminal penalties for a violation
20 of this Act; establishing a certain short title; defining certain terms; making
21 stylistic changes; and generally relating to the Maryland Money Transmission
22 Act.

23 BY repealing and reenacting, with amendments,
24 Article - Financial Institutions
25 Section 12-401 through 12-411, inclusive, 12-413 through 12-421, inclusive,
26 and 12-423 to be under the amended subtitle "Subtitle 4. Maryland Money
27 Transmission Act"
28 Annotated Code of Maryland
29 (1998 Replacement Volume and 2001 Supplement)

30 BY adding to
31 Article - Financial Institutions
32 Section 12-404, 12-408, 12-414, 12-415, 12-417, 12-424, 12-425, 12-427,

1 12-430, and 12-431
2 Annotated Code of Maryland
3 (1998 Replacement Volume and 2001 Supplement)

4 BY repealing
5 Article - Financial Institutions
6 Section 12-412, 12-422, and 12-424
7 Annotated Code of Maryland
8 (1998 Replacement Volume and 2001 Supplement)

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

11 **Article - Financial Institutions**

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

14 12-401.

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

16 (B) (1) "ACCELERATED MORTGAGE PAYMENT SERVICE" MEANS THE
17 SERVICE OF RECEIVING FUNDS FROM A MORTGAGOR FOR THE PURPOSE OF MAKING
18 MORTGAGE PAYMENTS TO A MORTGAGEE ON BEHALF OF THE MORTGAGOR IN
19 ORDER TO EXCEED THE REGULARLY SCHEDULED MINIMUM PAYMENT OBLIGATION
20 UNDER THE TERMS OF THE MORTGAGE.

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

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

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

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

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

1 (E) "CONTROL" MEANS:

2 (1) IF THE LICENSEE IS A CORPORATION:

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

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

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

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

12 (1) CASH;

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

17 (I) IS LOCATED IN THIS STATE OR MAINTAINS A BRANCH IN THIS
18 STATE; AND

19 (II) IS AUTHORIZED TO MAINTAIN ACCOUNTS;

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

21 (I) OBLIGATIONS OF OR GUARANTEED BY THE UNITED STATES, ITS
22 DEPARTMENTS, AGENCIES, OR INSTRUMENTALITIES, OR OBLIGATIONS OF ANY
23 STATE, TERRITORY, OR MUNICIPALITY OR ANY POLITICAL SUBDIVISION OF ANY
24 STATE, TERRITORY, OR MUNICIPALITY;

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

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

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

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

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

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

10 (J) "MATERIAL LITIGATION" MEANS LITIGATION THAT ACCORDING TO
11 GENERALLY ACCEPTED ACCOUNTING PRINCIPLES:

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

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

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

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

27 (2) "MONEY TRANSMISSION" INCLUDES:

28 (I) A BILL PAYER SERVICE;

29 (II) AN ACCELERATED MORTGAGE PAYMENT SERVICE; AND

30 (III) ANY INFORMAL MONEY TRANSFER SYSTEM FOR, OR NETWORK
31 OF PERSONS WHO ENGAGE AS A BUSINESS IN, FACILITATING THE TRANSFER OF
32 MONEY OUTSIDE THE CONVENTIONAL FINANCIAL INSTITUTIONS SYSTEM TO A
33 LOCATION WITHIN OR OUTSIDE THE UNITED STATES.

34 [(e)] (M) "Outstanding PAYMENT INSTRUMENT" [means sold in the United
35 States and reported to the licensee as not yet paid or transmitted.] MEANS A
36 PAYMENT INSTRUMENT THAT HAS BEEN SOLD OR ISSUED IN THE UNITED STATES

1 DIRECTLY BY A LICENSEE OR AN AUTHORIZED DELEGATE OF A LICENSEE THAT HAS
2 BEEN REPORTED AS NOT YET PAID BY OR FOR THE LICENSEE.

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

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

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

11 (1) Cash;

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

16 (I) IS LOCATED IN THIS STATE OR MAINTAINS A BRANCH IN THIS
17 STATE; AND

18 (II) IS AUTHORIZED TO MAINTAIN ACCOUNTS [A certificate of
19 deposit or other debt instrument of a banking institution, except a capital note];

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

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

24 (ii) Obligations of or obligations guaranteed by the United States,
25 any state, or any of their agencies or instrumentalities;] OBLIGATIONS OF OR
26 GUARANTEED BY THE UNITED STATES, ITS DEPARTMENTS, AGENCIES, OR
27 INSTRUMENTALITIES, OR OBLIGATIONS OF ANY STATE, TERRITORY, OR
28 MUNICIPALITY OR ANY POLITICAL SUBDIVISION OF ANY STATE, TERRITORY, OR
29 MUNICIPALITY;

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

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

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

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

14 [(4)] (5) Any other investment that the Commissioner approves.

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

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

19 (II) THAT IS PREFUNDED; AND

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

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

24 (Q) "SURETY DEVICE" MEANS:

25 (1) A SURETY BOND; OR

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

27 12-402.

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

29 (1) Any banking institution;

30 (2) ANY OTHER-STATE BANK;

31 [(2)] (3) Any national banking association;

32 [(3)] (4) Any credit union;

33 [(4)] (5) Any savings and loan association;

1 [(5)] (6) The United States government or any of its departments, [or]
2 agencies, OR INSTRUMENTALITIES;

3 [(6)] (7) The sale of payment instruments by any person on behalf of any
4 other person who is exempted by this subsection, if the payment instruments were
5 received from the other person under a trust receipt for the specific purpose of sale;

6 [(7)] (8) [Any other-state bank having a branch in this State;] THE
7 PROVISION OF ELECTRONIC TRANSFER OF GOVERNMENT BENEFITS FOR ANY
8 FEDERAL, STATE, OR COUNTY GOVERNMENTAL AGENCY AS DEFINED IN FEDERAL
9 RESERVE BOARD REGULATION E, BY A CONTRACTOR FOR AND ON BEHALF OF THE
10 UNITED STATES OR ANY OF ITS DEPARTMENTS, AGENCIES, OR INSTRUMENTALITIES,
11 OR ANY STATE OR ANY POLITICAL SUBDIVISION OF ANY STATE; or

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

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

17 12-403.

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

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

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

25 (3) PROVIDE ANY FEDERAL OR STATE AGENCY HAVING SUPERVISORY
26 RESPONSIBILITY OVER MONEY TRANSMISSION WITH ANY DOCUMENTS OR OTHER
27 INFORMATION.

28 12-404.

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

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

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

34 (2) INCOME FROM THE INVESTMENTS THAT THE STATE TREASURER
35 MAKES FOR THE FUND; AND

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

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

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

9 (1) EXPENDITURES AUTHORIZED UNDER THIS SUBTITLE; AND

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

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

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

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

18 (II) BY THE BUDGET AMENDMENT PROCEDURE PROVIDED FOR IN §
19 7-209 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

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

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

26 (2) THE STATE TREASURER SHALL DEPOSIT PAYMENTS RECEIVED FROM
27 THE COMMISSIONER INTO THE FUND.

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

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

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

34 (II) A SPECIAL FUND OF THE STATE.

1 [12-404.] 12-405.

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

6 (1) Is licensed by the Commissioner;

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

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

10 [12-405.] 12-406.

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

13 [(1) Is trustworthy and reputable;

14 (2) Has a good business reputation;

15 (3) Has sufficient business experience;

16 (4) Will keep at all times the permissible investments required under §
17 12-414 of this subtitle; and

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

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

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

23 (II) WARRANT THE BELIEF THAT THE BUSINESS OF MONEY
24 TRANSMISSION WILL BE CONDUCTED LAWFULLY, HONESTLY, FAIRLY, AND
25 EFFICIENTLY; AND

26 (III) COMMAND THE CONFIDENCE OF THE PUBLIC;

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

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

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

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

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

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

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

14 (1) THE NATURE AND VOLUME OF THE BUSINESS OR PROPOSED
15 BUSINESS OF THE APPLICANT;

16 (2) THE AMOUNT, NATURE, QUALITY, AND LIQUIDITY OF THE ASSETS OF
17 THE APPLICANT;

18 (3) THE AMOUNT AND NATURE OF THE LIABILITIES, INCLUDING
19 CONTINGENT LIABILITIES, OF THE APPLICANT;

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

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

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

24 (7) THE NATURE AND QUALITY OF THE PERSON THAT HAS CONTROL OF
25 THE APPLICANT; AND

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

27 [12-406.] 12-407.

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

31 [(2)] The application shall include:

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

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

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

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

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

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

10 (2) The statement shall:

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

13 (ii) Be audited and certified by an independent certified public
14 accountant; and

15 (iii) Include a schedule of all of the permissible investments of the
16 applicant.]

17 (B) AN APPLICANT SHALL PROVIDE:

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

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

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

26 (4) THE MOST RECENT UNCONSOLIDATED FINANCIAL STATEMENT OF
27 THE APPLICANT THAT SHALL:

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

30 (II) BE A CERTIFIED OPINION AUDIT PREPARED BY AN
31 INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT;

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

1 (IV) BE NO OLDER THAN 12 MONTHS BEFORE THE DATE OF THE
2 APPLICATION;

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

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

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

9 (C) IF THE APPLICANT IS A SOLE PROPRIETORSHIP, THE APPLICANT ALSO
10 SHALL PROVIDE:

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (2) A license fee of either:

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

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

9 (iii) \$400 if the applicant applies for the license on or after October
10 1, 1997 and on or before December 31, 1997.]

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

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

16 (i) Submit a separate application; AND

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

18 (iii)] Pay a separate license fee.

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

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

25 12-408.

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

30 (B) IN CONNECTION WITH AN INITIAL APPLICATION, A RENEWAL
31 APPLICATION, A SPECIAL INVESTIGATION, AND AT ANY OTHER TIME THE
32 COMMISSIONER REQUESTS, AN APPLICANT OR LICENSEE SHALL PROVIDE
33 FINGERPRINTS FOR USE BY THE FEDERAL BUREAU OF INVESTIGATION AND THE
34 MARYLAND CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF
35 THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES TO CONDUCT
36 CRIMINAL HISTORY RECORDS CHECKS.

1 (C) AN APPLICANT OR LICENSEE REQUIRED UNDER THIS SECTION TO
2 PROVIDE FINGERPRINTS SHALL PAY ANY PROCESSING FEE REQUIRED BY THE
3 FEDERAL BUREAU OF INVESTIGATION OR THE MARYLAND CRIMINAL JUSTICE
4 INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC
5 SAFETY AND CORRECTIONAL SERVICES.

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

10 [12-407.] 12-409.

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

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

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

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

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

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

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

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

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

- 1 (iii) Return the [bond] SURETY DEVICE filed [or permissible
2 investments deposited] under [§ 12-406] § 12-407 of this subtitle;
- 3 (iv) Refund the license [and agent fees] FEE; and
- 4 (v) Keep the investigation fee.
- 5 (2) Within 30 days after the Commissioner denies an application, the
6 Commissioner shall [:] STATE THE REASONS FOR THE DENIAL IN WRITING AND MAIL
7 THEM TO THE ADDRESS LISTED IN THE APPLICATION.
- 8 [(i) File in the Commissioner's office a written order of the denial;
- 9 (ii) Mail a copy of the order to the applicant at the address given on
10 the application; and
- 11 (iii) Return the bond filed or permissible investments deposited
12 under § 12-406 of this subtitle.]
- 13 [12-408.] 12-410.
- 14 (a) The Commissioner shall include on each license:
- 15 (1) The TRADE name of the licensee; and
- 16 (2) The address at which the business is to be conducted.
- 17 (b) (1) A license authorizes the licensee to do business under the license, at
18 the licensed place of business.
- 19 (2) A license does not authorize the licensee to accept deposits or engage
20 otherwise in a banking business except as authorized in this subtitle.
- 21 (3) Only one place of business may be maintained under any one license.
- 22 (c) The Commissioner may issue more than one license to an applicant who:
- 23 (1) Complies with [§12-406] § 12-407 of this subtitle; and
- 24 (2) Otherwise meets the requirements of this subtitle.
- 25 (D) A LICENSE MAY NOT BE TRANSFERRED OR ASSIGNED.
- 26 (E) (1) (I) IF THE LICENSEE HAS ITS HEADQUARTERS IN THE STATE, THE
27 LICENSEE SHALL PROMINENTLY DISPLAY THE LICENSE IN THE LOCATION THAT IS
28 OPEN TO THE PUBLIC AND AT WHICH THE LICENSEE ENGAGES IN THE BUSINESS OF
29 MONEY TRANSMISSION.
- 30 (II) IF THE LICENSEE HAS ITS HEADQUARTERS OUTSIDE THE
31 STATE, THE LICENSEE SHALL MAINTAIN THE LICENSE IN THE HEADQUARTERS.

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

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

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

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

14 [12-409.] 12-411.

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

19 [(2)] A license issued on or after October 1, 1997 expires on December 31
20 in each odd-numbered year after December 31, 1997, unless it is renewed for a
21 2-year term as provided in this section.]

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

24 (1) Otherwise is entitled to be licensed;

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

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

30 (4) Submits to the Commissioner:

31 (i) A renewal application on the form that the Commissioner
32 requires; and

33 (ii) A financial statement that complies with the requirements of [§
34 12-406(b)(2)] § 12-407(B)(4) of this subtitle.

1 [12-410.] 12-412.

2 (A) IN THIS SECTION, "TRUST COMPANY" HAS THE MEANING STATED IN §
3 1-101 OF THE ESTATES AND TRUSTS ARTICLE.

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

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

15 (2) The surety bond shall be:

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

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

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

30 (4) The liability of a surety:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (ii) [The number of places of business at which the applicant will be
37 transmitting money;] FOR A LICENSEE, THE AVERAGE MONTHLY OUTSTANDING

1 PAYMENT INSTRUMENTS OR OUTSTANDING MONEY TRANSMISSION LIABILITY FOR
2 THE PREVIOUS 12 MONTHS;

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

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

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

13 (2) If the Commissioner at any time believes that the [bond] SURETY
14 DEVICE [filed or permissible investments deposited under this section are insecure]
15 IS INSUFFICIENT, exhausted, or otherwise unsatisfactory, the Commissioner may
16 require EVIDENCE OF an additional [bond] SURETY DEVICE to be filed [or additional
17 or substitute permissible investments to be deposited] by the licensee. Within 30 days
18 after the Commissioner makes a written demand for the new [bond] SURETY DEVICE
19 [or permissible investments], the licensee shall file the EVIDENCE OF THE new [bond
20 or deposit the new permissible investments] SURETY DEVICE.

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

23 [12-411.] 12-413.

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

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

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

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

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

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

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

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

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

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

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

12 (2) The reports shall include, as of the preceding December 31 or June
13 30, respectively:

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

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

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

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

22 [12-412.

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

25 12-414.

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

28 (B) ALL MONEY TRANSMISSION SERVICES CONDUCTED BY AN AUTHORIZED
29 DELEGATE SHALL BE CONDUCTED STRICTLY IN ACCORDANCE WITH THE LICENSEE'S
30 OPERATING POLICIES AND PROCEDURES PROVIDED TO THE AUTHORIZED
31 DELEGATE.

32 (C) AN AUTHORIZED DELEGATE SHALL REMIT ALL MONEY OWED TO THE
33 LICENSEE IN ACCORDANCE WITH THE TERMS OF THE CONTRACT BETWEEN THE
34 LICENSEE AND THE AUTHORIZED DELEGATE.

1 (D) (1) ALL FUNDS RECEIVED BY AN AUTHORIZED DELEGATE FROM THE
2 SALE OF A PAYMENT INSTRUMENT, LESS FEES, SHALL CONSTITUTE TRUST FUNDS
3 BELONGING TO THE LICENSEE FROM THE TIME THE FUNDS ARE RECEIVED BY THE
4 AUTHORIZED DELEGATE UNTIL THE TIME WHEN THE FUNDS ARE REMITTED TO THE
5 LICENSEE.

6 (2) IF AN AUTHORIZED DELEGATE COMMINGLES ANY OF THE FUNDS
7 RECEIVED WITH ANY OTHER FUNDS OR PROPERTY OWNED OR CONTROLLED BY THE
8 AUTHORIZED DELEGATE, ALL COMMINGLED PROCEEDS AND OTHER PROPERTY
9 SHALL BE IMPRESSED WITH A TRUST IN FAVOR OF THE LICENSEE IN AN AMOUNT
10 EQUAL TO THE AMOUNT OF THE PROCEEDS DUE THE LICENSEE.

11 (E) AN AUTHORIZED DELEGATE SHALL REPORT TO THE LICENSEE THE THEFT
12 OR LOSS OF A PAYMENT INSTRUMENT WITHIN 24 HOURS AFTER THE THEFT OR LOSS.
13 12-415.

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

16 (I) NOTIFIES THE COMMISSIONER IN WRITING OF THE PROPOSED
17 CHANGE; AND

18 (II) RECEIVES THE APPROVAL OF THE COMMISSIONER.

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

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

26 (B) (1) A LICENSEE MAY NOT UNDERGO A CHANGE IN CONTROL UNLESS
27 THE LICENSEE:

28 (I) NOTIFIES THE COMMISSIONER IN WRITING OF THE PROPOSED
29 CHANGE;

30 (II) MAKES A WRITTEN REQUEST THAT THE COMMISSIONER
31 APPROVE THE PROPOSED CHANGE;

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

34 (IV) RECEIVES THE APPROVAL OF THE COMMISSIONER.

35 (2) WITHIN 60 DAYS AFTER RECEIVING A REQUEST FOR APPROVAL OF A
36 PROPOSED CHANGE IN CONTROL, THE COMMISSIONER MAY REQUIRE THE LICENSEE

1 TO PROVIDE ANY INFORMATION DEEMED NECESSARY TO DETERMINE WHETHER A
2 NEW APPLICATION IS REQUIRED BECAUSE OF THE PROPOSED CHANGE IN CONTROL.

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

5 (I) WITHIN 60 DAYS AFTER THE DATE THE COMMISSIONER
6 RECEIVES THE REQUEST; OR

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

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

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

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

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

22 [12-413.]12-416.

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

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

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

33 (3) A statement of outstanding payment instruments;

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

35 (I) AN ALPHABETICAL LIST OF ALL CURRENTLY AUTHORIZED
36 DELEGATES APPOINTED BY THE LICENSEE THAT INCLUDES THE NAME, BUSINESS

1 ADDRESS, BUSINESS PHONE NUMBER, AND BUSINESS E-MAIL ADDRESS OF EACH
2 AUTHORIZED DELEGATE;

3 (II) AN ALPHABETICAL LIST OF ALL AUTHORIZED DELEGATES
4 APPOINTED BY THE LICENSEE DURING THE PREVIOUS 6 MONTHS THAT INCLUDES
5 THE NAME, BUSINESS ADDRESS, BUSINESS PHONE NUMBER, BUSINESS E-MAIL
6 ADDRESS, AND DATE OF APPOINTMENT OF EACH AUTHORIZED DELEGATE; AND

7 (III) AN ALPHABETICAL LIST OF ALL AUTHORIZED DELEGATES
8 TERMINATED BY THE LICENSEE DURING THE PREVIOUS 6 MONTHS THAT INCLUDES
9 THE NAME, BUSINESS ADDRESS, BUSINESS PHONE NUMBER, BUSINESS E-MAIL
10 ADDRESS, AND DATE OF TERMINATION OF EACH AUTHORIZED DELEGATE; AND

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

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

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

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

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

21 (1) INCLUDES FINANCIAL STATEMENTS OF THE LICENSEE AUDITED BY
22 A CERTIFIED PUBLIC ACCOUNTANT AND PREPARED IN ACCORDANCE WITH
23 GENERALLY ACCEPTED ACCOUNTING PRINCIPLES FOR THE PREVIOUS CALENDAR
24 YEAR;

25 (2) STATES THE NUMBER AND AGGREGATE DOLLAR AMOUNT OF
26 PAYMENT INSTRUMENTS ISSUED OR SOLD AND THE AGGREGATE NUMBER AND
27 DOLLAR AMOUNT OF MONEY TRANSMISSIONS DURING THE PREVIOUS CALENDAR
28 YEAR;

29 (3) CONTAINS ANY OTHER INFORMATION THE COMMISSIONER
30 REASONABLY REQUIRES;

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

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

35 (C) (1) WITHIN 15 DAYS AFTER THE OCCURRENCE OF ANY OF THE
36 FOLLOWING EVENTS, A LICENSEE SHALL FILE A WRITTEN REPORT WITH THE

1 COMMISSIONER DESCRIBING THE EVENT AND ITS EXPECTED IMPACT ON THE
2 LICENSEE'S ACTIVITIES IN THE STATE:

3 (I) THE FILING FOR BANKRUPTCY OR REORGANIZATION BY THE
4 LICENSEE;

5 (II) THE INSTITUTION OF REVOCATION OR SUSPENSION
6 PROCEEDINGS AGAINST THE LICENSEE BY ANY STATE OR GOVERNMENTAL
7 AUTHORITY WITH REGARD TO THE LICENSEE'S MONEY TRANSMISSION ACTIVITIES
8 IN ANY STATE;

9 (III) ANY FELONY INDICTMENT OR CONVICTION OF THE LICENSEE
10 OR ANY OF ITS OFFICERS OR DIRECTORS RELATED TO MONEY TRANSMISSION
11 ACTIVITIES;

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

15 (V) THE FILING OF ANY MATERIAL LITIGATION AGAINST THE
16 LICENSEE[, the licensee shall:

17 (i) Notify]

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

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

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

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

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

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

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

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

35 (D) A LICENSEE PROMPTLY SHALL FILE WITH THE COMMISSIONER ANY
36 DEMAND BORROWING AGREEMENT OR AGREEMENTS INTO WHICH THE LICENSEE

1 MAY ENTER AS A PERMISSIBLE INVESTMENT OR A DEPOSIT IN LIEU OF A SURETY
2 BOND.

3 12-417.

4 A LICENSEE SHALL COMPLY WITH ALL FEDERAL AND STATE LAWS AND
5 REGULATIONS CONCERNING THE BUSINESS OF MONEY TRANSMISSION, MONEY
6 LAUNDERING, AND ABANDONED PROPERTY.

7 [12-414.] 12-418.

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

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

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

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

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

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

1 [12-415.] 12-419.

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

4 (1) In writing; and

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

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

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

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

14 [12-416.] 12-420.

15 Except as permitted by § 17-308.1 of the Commercial Law Article, a licensee
16 may not charge a service fee to any original buyer who redeems an unused payment
17 instrument.

18 [12-417.] 12-421.

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

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

28 [12-418.] 12-422.

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

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

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

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

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

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

6 [12-419.] 12-423.

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

10 (1) Any licensee;

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

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

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

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

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

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

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

29 12-424.

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

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

1 (C) THE LICENSEE SHALL PAY ALL REASONABLY INCURRED COSTS OF AN
2 EXAMINATION.

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

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

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

11 (F) THE COMMISSIONER MAY:

12 (1) EXAMINE ALL BOOKS, ACCOUNTS, AND RECORDS THE
13 COMMISSIONER DETERMINES ARE NECESSARY TO CONDUCT A COMPLETE
14 EXAMINATION; AND

15 (2) EXAMINE UNDER OATH ANY OFFICER, DIRECTOR, OR EMPLOYEE OF
16 THE LICENSEE.

17 12-425.

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

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

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

24 (3) SETTLEMENT SHEETS RECEIVED FROM EACH AUTHORIZED
25 DELEGATE;

26 (4) BANK STATEMENTS AND BANK RECONCILIATION RECORDS;

27 (5) RECORDS OF OUTSTANDING PAYMENT INSTRUMENTS;

28 (6) RECORDS OF EACH PAYMENT INSTRUMENT PAID WITHIN THE
29 3-YEAR PERIOD; AND

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

32 (B) A LICENSEE SHALL RETAIN THE RECORDS REQUIRED UNDER THIS
33 SECTION IN:

34 (1) ORIGINAL FORM; OR

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

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

4 (1) NOTIFIES THE COMMISSIONER IN WRITING OF THE LOCATION OF
5 THE RECORDS; AND

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

10 [12-420.] 12-426.

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

14 (1) THE LICENSEE OR ANY OWNER, DIRECTOR, OFFICER, MEMBER,
15 COVENTURER, PARTNER, STOCKHOLDER, EMPLOYEE, AGENT, OR AUTHORIZED
16 DELEGATE OF THE LICENSEE:

17 (I) MAKES ANY MATERIAL MISSTATEMENT IN AN APPLICATION
18 FOR A LICENSE;

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

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

23 (IV) WILLFULLY FAILS TO MAKE A REPORT REQUIRED UNDER THIS
24 SUBTITLE;

25 (V) IS CONVICTED UNDER THE LAWS OF THE UNITED STATES OR
26 ANY STATE OF A FELONY OR A MISDEMEANOR THAT IS DIRECTLY RELATED TO THE
27 FITNESS AND QUALIFICATION OF THE PERSON TO ENGAGE IN THE BUSINESS OF
28 MONEY TRANSMISSION;

29 (VI) IN CONNECTION WITH ANY MONEY TRANSMISSION
30 TRANSACTION:

31 1. COMMITS A FRAUD;

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

33 3. MISREPRESENTS OR FAILS TO DISCLOSE A MATERIAL
34 FACT TO ANYONE ENTITLED TO KNOW THAT INFORMATION;

1 (VII) VIOLATES ANY PROVISION OF THIS SUBTITLE OR ANY
2 REGULATION ADOPTED UNDER THIS SUBTITLE, OR ANY OTHER LAW REGULATING
3 THE BUSINESS OF MONEY TRANSMISSION; OR

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

8 (2) THE LICENSEE:

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

12 (II) BECOMES INSOLVENT;

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

16 (IV) HAS APPLIED FOR AN ADJUDICATION OF BANKRUPTCY,
17 REORGANIZATION, ARRANGEMENT, OR OTHER RELIEF UNDER ANY BANKRUPTCY
18 PROCEEDING.

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

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

24 (1) THE NATURE OF THE CRIME;

25 (2) THE RELATIONSHIP OF THE CRIME TO THE ACTIVITIES AUTHORIZED
26 BY THE LICENSE;

27 (3) WITH RESPECT TO A FELONY, THE RELEVANCE OF THE CONVICTION
28 TO THE FITNESS AND QUALIFICATION OF THE LICENSEE TO ENGAGE IN THE
29 BUSINESS OF MONEY TRANSMISSION;

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

31 (5) THE BEHAVIOR AND ACTIVITIES OF THE LICENSEE SINCE THE
32 CONVICTION.

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

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

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

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

7 (III) HAS MADE OR CAUSED TO BE MADE IN ANY APPLICATION OR
8 REPORT FILED WITH THE COMMISSIONER OR IN A PROCEEDING BEFORE THE
9 COMMISSIONER, A STATEMENT WHICH WAS AT THE TIME AND IN THE
10 CIRCUMSTANCES UNDER WHICH IT WAS MADE, FALSE OR MISLEADING WITH
11 RESPECT TO A MATERIAL FACT, OR HAS OMITTED TO STATE IN AN APPLICATION OR
12 REPORT A MATERIAL FACT WHICH IS REQUIRED TO BE STATED; OR

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

15 (2) THE COMPETENCE, EXPERIENCE, INTEGRITY, FINANCIAL
16 CONDITION, OR OVERALL MORAL CHARACTER OF THE AUTHORIZED DELEGATE, OR A
17 DIRECTOR, OFFICER, EMPLOYEE, OR PERSON THAT HAS CONTROL OF THE
18 AUTHORIZED DELEGATE, INDICATES THAT IT WOULD NOT BE IN THE INTEREST OF
19 THE PUBLIC TO PERMIT THE PERSON TO ENGAGE IN THE BUSINESS OF MONEY
20 TRANSMISSION.

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

24 (2) THE COMMISSIONER MAY NOT GRANT AN APPLICATION FILED
25 UNDER PARAGRAPH (1) OF THIS SUBSECTION UNLESS THE COMMISSIONER FINDS
26 THAT:

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

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

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

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

1 (ii) Requiring the violator to take affirmative action to correct the
 2 violation including the restitution of money or property to any person aggrieved by
 3 the violation.

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

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

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

- 13 (1) The seriousness of the violation;
- 14 (2) The good faith of the violator;
- 15 (3) The violator's history of previous violations;
- 16 (4) The deleterious effect of the violation on the public;
- 17 (5) The assets of the violator; and
- 18 (6) Any other factors relevant to the determination of the financial
 19 penalty.

20 12-427.

21 A PERSON THAT ENGAGES IN THE BUSINESS OF MONEY TRANSMISSION IS
 22 SUBJECT TO THE ENFORCEMENT PROVISIONS OF §§ 2-113 THROUGH 2-116 OF THIS
 23 ARTICLE IF THE PERSON:

- 24 (1) IS NOT LICENSED UNDER THIS SUBTITLE;
- 25 (2) IS NOT AN AUTHORIZED DELEGATE OF A LICENSEE; OR
- 26 (3) IS EXEMPT FROM LICENSING UNDER THIS SUBTITLE.

27 [12-421.] 12-428.

28 (a) Before the Commissioner denies an application for a license under [§
 29 12-407] § 12-409 of this subtitle or takes any action under [§ 12-420]§ 12-426 of this
 30 subtitle, the Commissioner shall give the applicant or licensee an opportunity for a
 31 hearing.

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

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

5 [12-422.

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

9 [12-423.]12-429.

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

12 [12-424.

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

16 12-430.

17 ANY PERSON WHO KNOWINGLY AND WILLFULLY VIOLATES ANY PROVISION OF
18 THIS SUBTITLE IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO A FINE
19 NOT EXCEEDING \$1,000 FOR THE FIRST VIOLATION AND NOT EXCEEDING \$5,000 FOR
20 EACH SUBSEQUENT VIOLATION OR IMPRISONMENT NOT EXCEEDING 5 YEARS OR
21 BOTH.

22 12-431.

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

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