

SENATE BILL 545

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By: **Chair, Finance Committee (By Request – Departmental – Labor,
Licensing and Regulation)**

Introduced and read first time: February 3, 2012

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Money Transmitters – Licensing Requirements and Participation in**
3 **Nationwide Licensing System**

4 FOR the purpose of authorizing the Commissioner of Financial Regulation to
5 participate in the establishment and implementation of a certain national
6 licensing system for money transmitters; authorizing the Commissioner to
7 adopt certain regulations that waive or modify the requirements of certain
8 provisions of law governing money transmitters under certain circumstances;
9 requiring each licensee or license applicant to obtain a certain unique identifier
10 number on or after a certain date; requiring certain license applicants to apply
11 for an initial license or license renewal through a certain nationwide licensing
12 system on or after a certain date; providing that an applicant for a license shall
13 complete, sign, and submit an application in accordance with the process that
14 the Commissioner requires; providing that the applicant shall provide certain
15 information to the Commissioner and comply with certain conditions and
16 provisions of the application for a license; altering the information and
17 documents that an applicant must provide with a license application; making
18 certain investigation and license fees nonrefundable; altering certain license
19 fees; requiring an applicant for an initial license and for each branch license to
20 pay a certain fee imposed by a certain nationwide licensing system; requiring
21 each person who engages in the business of money transmission to obtain and
22 maintain a license for its principal executive office; altering certain
23 requirements for the provision of fingerprints of applicants and licensees for
24 criminal history records checks; requiring the fingerprints and certain
25 information to be provided to a certain nationwide licensing system; authorizing
26 the Commissioner to use a certain nationwide licensing system as a channeling
27 agent for certain purposes; authorizing the Commissioner to request certain
28 records and documents; providing that certain requirements regarding the
29 privacy or confidentiality of certain information or material provided to a
30 certain nationwide licensing system continue to apply after disclosure of the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 information or material to the system; authorizing the Commissioner to enter
 2 into certain information sharing agreements; providing that certain provisions
 3 of this Act supersede certain provisions of law under certain circumstances;
 4 altering the contents of a certain notice; altering the term of an initial license
 5 and the license renewal period; requiring a licensee to pay a certain fee in
 6 connection with an examination of the licensee; requiring the Commissioner to
 7 report certain enforcement actions against a money transmitter or its
 8 authorized delegate and certain information to a certain nationwide licensing
 9 system; requiring the Commissioner to adopt regulations establishing a certain
 10 process; authorizing the Commissioner to submit to a certain nationwide
 11 licensing system certain information regarding enforcement actions against
 12 certain persons who are not licensees or authorized delegates; making certain
 13 conforming changes; defining certain terms; providing for the application of
 14 certain provisions of this Act; and generally relating to the regulation of money
 15 transmitters.

16 BY repealing and reenacting, with amendments,
 17 Article – Financial Institutions
 18 Section 2–105.1, 12–401, 12–405, 12–407 through 12–409, 12–410(e), 12–411,
 19 12–415(c), and 12–424
 20 Annotated Code of Maryland
 21 (2011 Replacement Volume and 2011 Supplement)

22 BY adding to
 23 Article – Financial Institutions
 24 Section 12–408.1 and 12–430.1
 25 Annotated Code of Maryland
 26 (2011 Replacement Volume and 2011 Supplement)

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

29 **Article – Financial Institutions**

30 2–105.1.

31 (a) (1) In this section the following words have the meanings indicated.

32 (2) **“MONEY TRANSMISSION” HAS THE MEANING STATED IN §**
 33 **12–401 OF THIS ARTICLE.**

34 [(2)] (3) “Mortgage lender” has the meaning stated in § 11–501 of
 35 this article.

36 [(3)] (4) “Mortgage originator” has the meaning stated in § 11–601 of
 37 this article.

1 (b) The Commissioner may adopt and enforce regulations reasonably
2 necessary to carry out the authority and responsibility of the office of Commissioner.

3 (c) (1) The Commissioner may participate in the establishment and
4 implementation of a multistate automated licensing system for [mortgage]:

5 (I) MORTGAGE lenders [and mortgage];

6 (II) MORTGAGE originators; AND

7 (III) PERSONS WHO ENGAGE IN MONEY TRANSMISSION.

8 (2) To facilitate implementation of a multistate automated licensing
9 system, the Commissioner may adopt regulations that waive or modify the
10 requirements of:

11 (I) Title 11, Subtitles 5 and 6 of this article WITH RESPECT TO
12 MORTGAGE LENDERS AND MORTGAGE ORIGINATORS; AND

13 (II) TITLE 12, SUBTITLE 4 OF THIS ARTICLE WITH RESPECT
14 TO PERSONS WHO ENGAGE IN MONEY TRANSMISSION.

15 12-401.

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

17 (b) (1) “Accelerated mortgage payment service” means the service of
18 receiving funds from a mortgagor for the purpose of making mortgage payments to a
19 mortgagee on behalf of the mortgagor in order to exceed the regularly scheduled
20 minimum payment obligation under the terms of the mortgage.

21 (2) “Accelerated mortgage payment service” does not include the
22 collection by a mortgagee of accelerated payments from the mortgagee’s own
23 mortgagors.

24 (c) (1) “Authorized delegate” means a person who is authorized by a
25 licensee to engage in the business of money transmission under the name of the
26 licensee at any location other than the place of business specified in the license.

27 (2) “Authorized delegate” does not include a branch office of a licensee.

28 (d) (1) “Bill payer service” means the service of receiving funds from an
29 obligor for the purpose of paying the obligor’s bills, invoices, mortgages, or accounts.

1 (2) “Bill payer service” does not include the service described in
2 paragraph (1) of this subsection that is provided by a nonprofit organization that is
3 exempt from taxation under § 501(c)(3) of the Internal Revenue Code.

4 **(E) “BRANCH LOCATION” MEANS ANY LOCATION OTHER THAN THE**
5 **PRINCIPAL EXECUTIVE OFFICE OF A LICENSEE OR LICENSE APPLICANT AT**
6 **WHICH MONEY TRANSMISSION SERVICES ARE, OR WILL BE ON LICENSURE,**
7 **CONDUCTED IN THE STATE OR WITH A PERSON IN THE STATE.**

8 **[(e)] (F)** “Control” means:

9 (1) If the licensee is a corporation:

10 (i) The direct or indirect ownership of, or the right to control,
11 25% or more of the voting shares of the licensee; or

12 (ii) The ability to elect a majority of the directors or otherwise
13 effect a change in policy of the licensee; and

14 (2) If the licensee is a person other than a corporation, the possession,
15 directly or indirectly, of the power to direct or cause the direction of the management
16 and policies of the licensee, whether through ownership, by contract, or otherwise.

17 **(G) (1) “CONTROL PERSON” MEANS A PERSON WHO HAS THE POWER,**
18 **DIRECTLY OR INDIRECTLY, TO DIRECT THE MANAGEMENT OR POLICIES OF A**
19 **MONEY TRANSMITTER, WHETHER THROUGH OWNERSHIP OF SECURITIES, BY**
20 **CONTRACT, OR OTHERWISE.**

21 **(2) “CONTROL PERSON” INCLUDES A PERSON WHO:**

22 **(I) IS A GENERAL PARTNER, AN OFFICER, OR A DIRECTOR**
23 **OF A MONEY TRANSMITTER, OR A PERSON WHO OCCUPIES A SIMILAR POSITION**
24 **OR PERFORMS A SIMILAR FUNCTION;**

25 **(II) DIRECTLY OR INDIRECTLY HAS THE RIGHT TO VOTE**
26 **10% OR MORE OF A CLASS OF VOTING SECURITIES, OR HAS THE POWER TO SELL**
27 **OR DIRECT THE SALE OF 10% OR MORE OF A CLASS OF VOTING SECURITIES, OF**
28 **A MONEY TRANSMITTER; OR**

29 **(III) IN THE CASE OF A PARTNERSHIP, A LIMITED**
30 **PARTNERSHIP, A LIMITED LIABILITY PARTNERSHIP, A LIMITED LIABILITY**
31 **COMPANY, OR ANY OTHER BUSINESS ENTITY:**

1 **1. HAS THE RIGHT TO RECEIVE ON LIQUIDATION OR**
2 **DISSOLUTION OF A MONEY TRANSMITTER 10% OR MORE OF THE CAPITAL OF A**
3 **MONEY TRANSMITTER; OR**

4 **2. HAS CONTRIBUTED 10% OR MORE OF THE**
5 **CAPITAL OF A MONEY TRANSMITTER.**

6 **[(f)] (H)** “Deposit in lieu of a surety bond” means an investment in:

7 (1) Cash;

8 (2) Unless found by the Commissioner to be unacceptable, a certificate
9 of deposit or other debt obligation, except a capital note, of a State-chartered or
10 federally chartered financial institution, other-state bank, or foreign bank that:

11 (i) Is located in this State or maintains a branch in this State;
12 and

13 (ii) Is authorized to maintain deposit or share accounts;

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

15 (i) Obligations of or guaranteed by the United States, its
16 departments, agencies, or instrumentalities, or obligations of any state, territory, or
17 municipality or any political subdivision of any state, territory, or municipality;

18 (ii) Any investment securities, money market mutual funds,
19 interest-bearing bills or notes, debentures, or stock traded on any national securities
20 exchange or on a national over-the-counter market bearing a rating of one of the
21 three highest grades as defined by a nationally recognized organization that rates
22 such securities; and

23 (iii) Any demand borrowing agreement or agreements in an
24 amount or aggregate amount which does not exceed 10% of the net worth of the
25 company liable for payment under the agreement or agreements as shown on financial
26 statements certified by a certified public accountant acceptable to the Commissioner,
27 provided that the company is a corporation or a subsidiary of a corporation whose
28 capital stock is listed on a national exchange and is not a licensee or authorized
29 delegate of a licensee under this subtitle; or

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

31 **[(g)] (I)** “Executive officer” means a president, vice president, senior officer
32 responsible for business operations, chief financial officer, or any other individual who
33 performs similar functions.

1 [(h) “Key shareholder” means any person, or group of persons acting in
2 concert, that is the owner of 25% or more of any class of voting stock.]

3 [(i)] (J) “License” means a license issued by the Commissioner under this
4 subtitle to engage in the business of money transmission.

5 [(j)] (K) “Material litigation” means litigation that according to generally
6 accepted accounting principles:

7 (1) Is deemed significant to an applicant’s or licensee’s financial
8 health; and

9 (2) Would be required to be referenced in the applicant’s or licensee’s
10 annual audited financial statements, report to shareholders, or similar document.

11 [(k)] (L) “Monetary value” means a medium of exchange whether or not
12 redeemable in money.

13 [(l)] (M) (1) “Money transmission” means the business of selling or
14 issuing payment instruments or stored value devices, or receiving money or monetary
15 value, for transmission to a location within or outside the United States by any means,
16 including electronically or through the Internet.

17 (2) “Money transmission” includes:

18 (i) A bill payer service;

19 (ii) An accelerated mortgage payment service; and

20 (iii) Any informal money transfer system engaged in as a
21 business for, or network of persons who engage as a business in, facilitating the
22 transfer of money outside the conventional financial institutions system to a location
23 within or outside the United States.

24 [(m)] (N) “Outstanding payment instrument” means a payment instrument
25 that has been sold or issued in the United States directly by a licensee or an
26 authorized delegate of a licensee that has been reported as not yet paid by or for the
27 licensee.

28 (O) “NATIONWIDE LICENSING SYSTEM” MEANS A MULTISTATE UNIFORM
29 LICENSING SYSTEM DEVELOPED AND MAINTAINED BY THE CONFERENCE OF
30 STATE BANK SUPERVISORS, OR BY A SUBSIDIARY OR AN AFFILIATE OF THE
31 CONFERENCE OF STATE BANK SUPERVISORS, FOR THE LICENSING OF MONEY
32 SERVICES BUSINESSES, INCLUDING MONEY TRANSMITTERS.

1 **[(n)] (P)** (1) “Payment instrument” means any electronic or written
2 check, draft, money order, traveler’s check, or other electronic or written instrument or
3 order for the transmission or payment of money, sold or issued to one or more persons,
4 whether or not the instrument is negotiable.

5 (2) “Payment instrument” does not include any credit card voucher,
6 letter of credit, or tangible object redeemable by the issuer in goods or services.

7 **[(o)] (Q)** “Permissible investment” means:

8 (1) Cash;

9 (2) Unless found by the Commissioner to be unacceptable, a certificate
10 of deposit or other debt obligation, except a capital note, of a State-chartered or
11 federally chartered financial institution, other-state bank, or foreign bank that:

12 (i) Is located in this State or maintains a branch in this State;
13 and

14 (ii) Is authorized to maintain deposit or share accounts;

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

16 (i) Obligations of or guaranteed by the United States, its
17 departments, agencies, or instrumentalities, or obligations of any state, territory, or
18 municipality or any political subdivision of any state, territory, or municipality;

19 (ii) Any investment securities, money market mutual fund,
20 interest-bearing bills or notes, debentures or stock traded on any national securities
21 exchange or on a national over-the-counter market bearing a rating of one of the
22 three highest grades as defined by a nationally recognized organization that rates
23 such securities; and

24 (iii) Any demand borrowing agreement or agreements in an
25 amount or aggregate amount which does not exceed 10% of the net worth of the
26 company liable for payment under the agreement or agreements as shown on financial
27 statements certified by a certified public accountant acceptable to the Commissioner,
28 provided that the company is a corporation or a subsidiary of a corporation whose
29 capital stock is listed on a national exchange and is not a licensee or authorized
30 delegate of a licensee under this subtitle;

31 (4) Receivables that are due to a licensee from its authorized delegates
32 under a contract described in § 12-413 of this subtitle that are not past due or
33 doubtful of collection; or

34 (5) Any other investment that the Commissioner approves.

1 **[(p)] (R)** (1) “Stored value device” means a card or other tangible object
2 used for the transmission or payment of money:

3 (i) That contains a microprocessor chip, magnetic stripe, or
4 other means for the storage of information;

5 (ii) That is prefunded; and

6 (iii) The value of which is reduced after each use.

7 (2) “Stored value device” does not include any tangible object the value
8 of which is redeemable only in the issuer’s goods or services.

9 **[(q)] (S)** “Surety device” means:

10 (1) A surety bond; or

11 (2) A deposit in lieu of a surety bond.

12 **(T) “UNIQUE IDENTIFIER” MEANS A NUMBER OR ANOTHER IDENTIFIER**
13 **ASSIGNED BY THE NATIONWIDE LICENSING SYSTEM.**

14 12–405.

15 **(A)** A person may not engage in the business of money transmission if that
16 person, or the person with whom that person engages in the business of money
17 transmission, is located in the State unless that person:

18 (1) Is licensed by the Commissioner;

19 (2) Is an authorized delegate of a licensee under whose name the
20 business of money transmission occurs; or

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

22 **(B) EACH LICENSEE OR LICENSE APPLICANT SHALL OBTAIN AND**
23 **MAINTAIN A VALID UNIQUE IDENTIFIER ISSUED BY THE NATIONWIDE LICENSING**
24 **SYSTEM:**

25 **(1) ON FORMING AN ACCOUNT WITH THE NATIONWIDE LICENSING**
26 **SYSTEM ON OR AFTER NOVEMBER 1, 2012; OR**

27 **(2) IF THE COMMISSIONER HAS NOT JOINED THE NATIONWIDE**
28 **LICENSING SYSTEM AS OF NOVEMBER 1, 2012, ON OR AFTER THE DATE THAT**
29 **THE COMMISSIONER JOINS, AS SPECIFIED BY THE COMMISSIONER BY PUBLIC**
30 **NOTICE.**

1 **(C) AN APPLICANT FOR AN INITIAL LICENSE OR A LICENSE RENEWAL**
2 **SHALL APPLY FOR THE LICENSE OR RENEWAL THROUGH THE NATIONWIDE**
3 **LICENSING SYSTEM:**

4 **(1) ON OR AFTER NOVEMBER 1, 2012; OR**

5 **(2) IF THE COMMISSIONER HAS NOT JOINED THE NATIONWIDE**
6 **LICENSING SYSTEM AS OF NOVEMBER 1, 2012, ON OR AFTER THE DATE THAT**
7 **THE COMMISSIONER JOINS, AS SPECIFIED BY THE COMMISSIONER BY PUBLIC**
8 **NOTICE.**

9 12-407.

10 **(a) (1) To apply for a license, an applicant shall [complete]:**

11 **(i) COMPLETE, SIGN, and submit to the Commissioner an**
12 **application made under oath [on] IN the form, AND IN ACCORDANCE WITH THE**
13 **PROCESS, that the Commissioner requires; AND**

14 **(ii) PROVIDE ALL INFORMATION THAT THE COMMISSIONER**
15 **REQUESTS.**

16 **(2) THE APPLICANT SHALL COMPLY WITH ALL CONDITIONS AND**
17 **PROVISIONS OF THE APPLICATION FOR A LICENSE.**

18 **(b) An applicant shall provide:**

19 **(1) The trade name of the applicant, as filed with the State**
20 **Department of Assessments and Taxation under § 1-406 of the Corporations and**
21 **Associations Article, and any fictitious or other name used by the applicant in the**
22 **conduct of the applicant's business;**

23 **(2) The address [at which the applicant's business is to be conducted**
24 **and the address of the headquarters of the business] OF THE PRINCIPAL EXECUTIVE**
25 **OFFICE OF THE APPLICANT AND EACH BRANCH LOCATION;**

26 **(3) The name, business address, and nature of the business of each**
27 **authorized delegate to be appointed by the applicant;**

28 **(4) The most recent unconsolidated financial statement of the**
29 **applicant that shall:**

30 **(i) Be prepared in accordance with generally accepted**
31 **accounting principles applied on a consistent basis;**

1 (ii) Be a certified opinion audit prepared by an independent
2 certified public accountant;

3 (iii) Include a schedule of all permissible investments, if any, of
4 the applicant; and

5 (iv) Be no older than 12 months before the date of the
6 application;

7 (5) The name, address, and telephone number of the applicant's
8 resident agent in the State;

9 (6) A history of material litigation against the applicant, if any, for the
10 past 3 years; and

11 (7) Any other information that the Commissioner reasonably requires.

12 [(c) If the applicant is a sole proprietorship, the applicant also shall provide:

13 (1) The applicant's residence address, telephone number, and
14 electronic mail address; and

15 (2) The applicant's credit report that is no older than 3 months before
16 the date of the application.

17 (d) If the applicant is a joint venture or partnership, the applicant also shall
18 provide:

19 (1) The residence address, telephone number, and electronic mail
20 address of each coventurer or general partner;

21 (2) An individual credit report for all coventurers or general partners
22 that is no older than 3 months before the date of application; and

23 (3) A copy of all joint venture or partnership agreements for the
24 applicant.

25 (e) If the applicant is a corporation or limited liability company, the
26 applicant also shall provide:

27 (1) The name, business telephone number, electronic mail address,
28 and the residence address and telephone number of the executive officers, directors,
29 and all key shareholders or members;

30 (2) A business credit report for the applicant that is no older than 3
31 months before the date of application;

1 (3) Certified copies of the applicant's articles of incorporation or
2 articles of organization and bylaws or operating agreement with all amendments; and]

3 (C) AN APPLICANT THAT IS A BUSINESS ENTITY SHALL PROVIDE:

4 (1) CERTIFIED COPIES OF THE APPLICANT'S CERTIFICATE OF
5 INCORPORATION, ARTICLES OF INCORPORATION, OR ARTICLES OF
6 ORGANIZATION, OR OTHER INSTRUMENT INCORPORATING OR FORMING THE
7 APPLICANT, AS AMENDED, CORRECTED, OR SUPPLEMENTED; AND

8 (2) THE BYLAWS, OPERATING AGREEMENT, OR OTHER
9 EQUIVALENT INTERNAL GOVERNANCE DOCUMENTS, AS AMENDED OR
10 SUPPLEMENTED.

11 [(4)] (D) [A] AN APPLICANT SHALL PROVIDE A certificate of good
12 standing from the state in which the applicant is incorporated or organized AND A
13 CERTIFICATE OF GOOD STANDING FROM THE STATE DEPARTMENT OF
14 ASSESSMENTS AND TAXATION.

15 [(f)] (E) With the application, the applicant shall pay to the Commissioner:

16 (1) [An] A NONREFUNDABLE investigation fee of \$1,000; and

17 (2) A NONREFUNDABLE license fee of [either:

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

20 (ii) \$2,000 [if the applicant applies for the license on or after
21 January 1 and on or before December 31 of an odd-numbered year].

22 (F) IN ADDITION TO THE LICENSE FEE REQUIRED UNDER SUBSECTION
23 (E) OF THIS SECTION, AN APPLICANT FOR AN INITIAL LICENSE SHALL PAY TO
24 THE NATIONWIDE LICENSING SYSTEM THE FEE THAT THE NATIONWIDE
25 LICENSING SYSTEM IMPOSES IN CONNECTION WITH PROCESSING THE
26 APPLICATION.

27 (g) With the application, the applicant shall file evidence of a surety device
28 with the Commissioner as provided in § 12-412 of this subtitle.

29 (h) (1) IN ADDITION TO ANY LICENSE REQUIRED UNDER §§ 12-405
30 AND 12-410 OF THIS SUBTITLE, EACH PERSON WHO ENGAGES IN THE BUSINESS

1 **OF MONEY TRANSMISSION SHALL OBTAIN AND MAINTAIN A LICENSE FOR ITS**
2 **PRINCIPAL EXECUTIVE OFFICE.**

3 **(2)** For each **BRANCH LOCATION** license for which an applicant
4 applies, the applicant shall:

5 (i) Submit a separate application; [and]

6 (ii) Pay a separate **NONREFUNDABLE** license fee; **AND**

7 **(III) PAY THE APPLICATION PROCESSING FEE THAT THE**
8 **NATIONWIDE LICENSING SYSTEM IMPOSES IN CONNECTION WITH PROCESSING**
9 **THE APPLICATION FOR THE BRANCH LOCATION.**

10 **[(2)] (3)** If an applicant has or is applying for more than one license,
11 the applicant may comply with subsection (g) of this section by filing evidence of only
12 one surety device.

13 **[(3)] (4)** If an applicant has or is applying for more than one license,
14 the applicant is not required to pay a separate investigation fee.

15 12-408.

16 **(A) IN THIS SECTION, "CENTRAL REPOSITORY" MEANS THE CRIMINAL**
17 **JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT**
18 **OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.**

19 **[(a)] (B)** This section does not apply to any corporation the securities of
20 which are exempt from registration under § 11-601(8) or (12) of the Corporations and
21 Associations Article or any wholly owned subsidiary of the corporation.

22 **(b)** In connection with an initial application, a renewal application, a special
23 investigation, and at any other time the Commissioner requests, an applicant or
24 licensee shall provide fingerprints for use by the Federal Bureau of Investigation and
25 the Maryland Criminal Justice Information System Central Repository of the
26 Department of Public Safety and Correctional Services to conduct criminal history
27 records checks.

28 (c) An applicant or licensee required under this section to provide
29 fingerprints shall pay any processing fee required by the Federal Bureau of
30 Investigation or the Maryland Criminal Justice Information System Central
31 Repository of the Department of Public Safety and Correctional Services.]

32 **(C) IN CONNECTION WITH AN INITIAL APPLICATION FOR A LICENSE**
33 **UNDER § 12-407 OF THIS SUBTITLE, AND AT ANY OTHER TIME THAT THE**

1 COMMISSIONER REQUESTS, AN APPLICANT OR LICENSEE SHALL PROVIDE TO
2 THE NATIONWIDE LICENSING SYSTEM INFORMATION CONCERNING THE
3 APPLICANT'S IDENTITY, INCLUDING:

4 (1) FINGERPRINTS FOR SUBMISSION TO THE FEDERAL BUREAU
5 OF INVESTIGATION, AND ANY OTHER GOVERNMENTAL AGENCY OR ENTITY,
6 INCLUDING THE CENTRAL REPOSITORY, AUTHORIZED TO RECEIVE THIS
7 INFORMATION FOR A STATE, A NATIONAL, OR AN INTERNATIONAL CRIMINAL
8 HISTORY BACKGROUND CHECK;

9 (2) IN THE CASE OF A SOLE PROPRIETORSHIP, PERSONAL
10 HISTORY AND EXPERIENCE IN A FORM PRESCRIBED BY THE NATIONWIDE
11 LICENSING SYSTEM, INCLUDING THE SUBMISSION OF AUTHORIZATION FOR THE
12 NATIONWIDE LICENSING SYSTEM AND THE COMMISSIONER TO OBTAIN:

13 (i) AN INDEPENDENT CREDIT REPORT FROM A CONSUMER
14 REPORTING AGENCY DESCRIBED IN THE FEDERAL FAIR CREDIT REPORTING
15 ACT, 15 U.S.C. § 1681A(P); AND

16 (ii) INFORMATION RELATED TO ANY ADMINISTRATIVE,
17 CIVIL, OR CRIMINAL FINDINGS BY ANY GOVERNMENTAL JURISDICTION; AND

18 (3) IN THE CASE OF A CORPORATION OR ANOTHER BUSINESS
19 ENTITY:

20 (i) BUSINESS HISTORY IN A FORM PRESCRIBED BY THE
21 NATIONWIDE LICENSING SYSTEM, INCLUDING:

22 1. THE SUBMISSION OF A BUSINESS CREDIT REPORT
23 FOR THE APPLICANT THAT IS NO OLDER THAN 3 MONTHS BEFORE THE DATE OF
24 THE APPLICATION; AND

25 2. INFORMATION RELATED TO ANY
26 ADMINISTRATIVE, CIVIL, OR CRIMINAL FINDINGS BY ANY GOVERNMENTAL
27 JURISDICTION; AND

28 (ii) FOR EACH CONTROL PERSON, PERSONAL HISTORY IN A
29 FORM PRESCRIBED BY THE NATIONWIDE LICENSING SYSTEM.

30 (D) SUBJECT TO § 12-408.1 OF THIS SUBTITLE, TO IMPLEMENT THIS
31 SUBTITLE, THE COMMISSIONER MAY USE THE NATIONWIDE LICENSING SYSTEM
32 AS A CHANNELING AGENT TO REQUEST INFORMATION FROM AND DISTRIBUTE
33 INFORMATION TO THE DEPARTMENT OF JUSTICE, ANY OTHER GOVERNMENTAL

1 AGENCY WITH SUBJECT MATTER JURISDICTION, AND ANY OTHER STATE
2 LICENSING ENTITY THAT HAS MONEY TRANSMITTERS LICENSED OR
3 REGISTERED WITH THE NATIONWIDE LICENSING SYSTEM.

4 (E) IN ADDITION TO THE REQUIREMENTS UNDER SUBSECTION (C) OF
5 THIS SECTION, IN CONNECTION WITH AN INITIAL APPLICATION FOR A LICENSE
6 UNDER § 12-407 OF THIS SUBTITLE, AND AT ANY OTHER TIME THAT THE
7 COMMISSIONER REQUESTS, AN APPLICANT OR A LICENSEE SHALL PROVIDE
8 FINGERPRINTS FOR USE BY THE CENTRAL REPOSITORY TO CONDUCT CRIMINAL
9 HISTORY RECORDS CHECKS.

10 (F) AN APPLICANT OR A LICENSEE WHO IS REQUIRED TO PROVIDE
11 FINGERPRINTS UNDER SUBSECTION (C) OR (E) OF THIS SECTION SHALL PAY THE
12 PROCESSING OR OTHER FEES REQUIRED BY THE CENTRAL REPOSITORY, THE
13 FEDERAL BUREAU OF INVESTIGATION, AND THE NATIONWIDE LICENSING
14 SYSTEM.

15 (G) THE COMMISSIONER MAY REQUEST FROM THE CENTRAL
16 REPOSITORY, THE FEDERAL BUREAU OF INVESTIGATION, OR THE NATIONWIDE
17 LICENSING SYSTEM, AS APPLICABLE, FOR EACH PERSON WHO IS REQUIRED TO
18 PROVIDE FINGERPRINTS UNDER SUBSECTION (C) OR (E) OF THIS SECTION:

19 (1) (I) THE STATE, NATIONAL, OR INTERNATIONAL CRIMINAL
20 HISTORY RECORDS OF THE PERSON; AND

21 (II) A PRINTED STATEMENT LISTING ANY CONVICTION OR
22 OTHER DISPOSITION OF, AND ANY PLEA OF GUILTY OR NOLO CONTENDERE TO,
23 ANY CRIMINAL CHARGE;

24 (2) (I) AN UPDATE OF THE INITIAL CRIMINAL HISTORY
25 RECORDS CHECK OR CRIMINAL HISTORY BACKGROUND CHECK OF THE PERSON;
26 AND

27 (II) A REVISED STATEMENT LISTING ANY CONVICTION OR
28 OTHER DISPOSITION OF, AND ANY PLEA OF GUILTY OR NOLO CONTENDERE TO,
29 ANY CRIMINAL CHARGE OCCURRING AFTER THE DATE OF THE INITIAL
30 CRIMINAL HISTORY RECORDS CHECK OR CRIMINAL HISTORY BACKGROUND
31 CHECK; AND

32 (3) AN ACKNOWLEDGED RECEIPT OF THE APPLICATION FOR A
33 CRIMINAL HISTORY RECORDS CHECK OR CRIMINAL HISTORY BACKGROUND
34 CHECK OF THE PERSON.

1 **[(d)] (H)** If the applicant or licensee is a corporation **OR ANOTHER**
2 **BUSINESS ENTITY**, the fingerprinting and criminal history records check
3 requirements **UNDER SUBSECTION (C) OR (E) OF THIS SECTION** shall apply to [the
4 president and any other executive officer of] **AN EXECUTIVE OFFICER, A GENERAL**
5 **PARTNER, OR A MANAGING MEMBER OF, OR AN INDIVIDUAL SERVING IN A**
6 **SIMILAR CAPACITY WITH RESPECT TO**, the corporation **OR OTHER BUSINESS**
7 **ENTITY**, as requested by the Commissioner.

8 **12-408.1.**

9 **(A) (1) THE REQUIREMENTS UNDER ANY FEDERAL LAW AND §§**
10 **10-611 THROUGH 10-628 OF THE STATE GOVERNMENT ARTICLE REGARDING**
11 **THE PRIVACY OR CONFIDENTIALITY OF INFORMATION OR MATERIAL PROVIDED**
12 **TO THE NATIONWIDE LICENSING SYSTEM, AND ANY PRIVILEGE ARISING UNDER**
13 **FEDERAL OR STATE LAW, INCLUDING THE RULES OF ANY FEDERAL OR STATE**
14 **COURT WITH RESPECT TO THAT INFORMATION OR MATERIAL, SHALL CONTINUE**
15 **TO APPLY TO THAT INFORMATION OR MATERIAL AFTER THE INFORMATION OR**
16 **MATERIAL HAS BEEN DISCLOSED TO THE NATIONWIDE LICENSING SYSTEM.**

17 **(2) THE INFORMATION AND MATERIAL MAY BE SHARED WITH ALL**
18 **STATE AND FEDERAL REGULATORY OFFICIALS HAVING OVERSIGHT AUTHORITY**
19 **OVER THE MONEY TRANSMISSION INDUSTRY, INCLUDING THE FINANCIAL**
20 **CRIMES ENFORCEMENT NETWORK, WITHOUT THE LOSS OF PRIVILEGE OR THE**
21 **LOSS OF CONFIDENTIALITY PROTECTIONS PROVIDED BY FEDERAL LAW OR §§**
22 **10-611 THROUGH 10-628 OF THE STATE GOVERNMENT ARTICLE.**

23 **(B) THE COMMISSIONER MAY ENTER INTO INFORMATION-SHARING**
24 **AGREEMENTS WITH OTHER GOVERNMENTAL AGENCIES, THE CONFERENCE OF**
25 **STATE BANK SUPERVISORS, OR OTHER ASSOCIATIONS REPRESENTING**
26 **GOVERNMENTAL AGENCIES, INCLUDING THE FINANCIAL CRIMES**
27 **ENFORCEMENT NETWORK.**

28 **(C) INFORMATION OR MATERIAL THAT IS SUBJECT TO A PRIVILEGE OR**
29 **CONFIDENTIALITY UNDER SUBSECTION (A) OF THIS SECTION MAY NOT BE**
30 **SUBJECT TO:**

31 **(1) DISCLOSURE UNDER ANY FEDERAL OR STATE LAW**
32 **GOVERNING THE DISCLOSURE TO THE PUBLIC OF INFORMATION HELD BY AN**
33 **OFFICER OR AGENCY OF THE FEDERAL GOVERNMENT OR A STATE THAT HAS**
34 **RECEIVED THE INFORMATION OR MATERIAL; OR**

35 **(2) SUBPOENA, DISCOVERY, OR ADMISSION INTO EVIDENCE, IN**
36 **ANY PRIVATE CIVIL ACTION OR ADMINISTRATIVE PROCESS, UNLESS WITH**

1 RESPECT TO ANY PRIVILEGE HELD BY THE NATIONWIDE LICENSING SYSTEM,
2 THE PERSON TO WHOM THE INFORMATION OR MATERIAL PERTAINS WAIVES, IN
3 WHOLE OR IN PART, THAT PRIVILEGE.

4 (D) ANY PROVISIONS OF §§ 10-611 THROUGH 10-628 OF THE STATE
5 GOVERNMENT ARTICLE RELATING TO THE DISCLOSURE OF ANY INFORMATION
6 OR MATERIAL DESCRIBED IN SUBSECTION (A) OF THIS SECTION THAT ARE
7 INCONSISTENT WITH SUBSECTION (A) OF THIS SECTION SHALL BE SUPERSEDED
8 BY THE REQUIREMENTS OF THIS SECTION.

9 (E) THIS SECTION DOES NOT APPLY TO INFORMATION OR MATERIAL
10 RELATING TO PUBLICLY ADJUDICATED DISCIPLINARY AND ENFORCEMENT
11 ACTIONS AGAINST A MONEY TRANSMITTER OR ITS AUTHORIZED DELEGATE
12 THAT IS INCLUDED IN THE NATIONWIDE LICENSING SYSTEM AND DESIGNATED
13 FOR ACCESS BY THE PUBLIC.

14 12-409.

15 (a) After the filing of a complete application, the Commissioner shall
16 investigate the financial condition and responsibility, financial and business
17 experience, character, and general fitness of the applicant.

18 (b) (1) Unless the Commissioner notifies the applicant that a different
19 time period is necessary, the Commissioner shall approve or deny each application for
20 a license within 60 days after the date a complete application is filed.

21 (2) [Subject to the provisions of paragraph (3) of this subsection, the]
22 THE applicant may by written request to the Commissioner withdraw the application
23 at any time before the issuance of the license.

24 [(3) (i) If the application is withdrawn 30 days or less after the date
25 of application, the Commissioner shall refund the investigation fee and license fee.

26 (ii) If the application is withdrawn more than 30 days after the
27 date of application, the Commissioner shall keep the investigation fee and return the
28 license fee.]

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

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

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

1 (ii) Subject to the hearing provisions of § 12–428 of this subtitle,
2 deny the application;

3 (iii) Return the surety device filed under § 12–407 of this
4 subtitle; **AND**

5 (iv) [Refund the license fee; and

6 (v)] Keep the **LICENSE FEE AND THE** investigation fee.

7 (2) Within 30 days after the Commissioner denies an application, the
8 Commissioner shall state the reasons for the denial in writing and mail them to the
9 address listed in the application.

10 12–410.

11 (e) (1) (i) If the licensee has its [headquarters] **PRINCIPAL**
12 **EXECUTIVE OFFICE** in the State, the licensee shall prominently display the license
13 **AND UNIQUE IDENTIFIER** in the location that is open to the public and at which the
14 licensee engages in the business of money transmission.

15 (ii) If the licensee has its [headquarters] **PRINCIPAL**
16 **EXECUTIVE OFFICE** outside the State, the licensee shall maintain the license in the
17 [headquarters] **PRINCIPAL EXECUTIVE OFFICE**.

18 (2) Each authorized delegate shall display prominently at each
19 location open to the public a notice in at least 48–point type that states the following:

20 “The Commissioner of Financial Regulation for the State of Maryland will
21 accept all questions or complaints regarding this authorized delegate of (name of
22 licensee, **LICENSE NUMBER, AND UNIQUE IDENTIFIER**) at (address of
23 Commissioner), phone (toll–free phone number of the Commissioner)”.

24 (3) A licensee that offers Internet money transmission services shall
25 include the following notice on its website:

26 “The Commissioner of Financial Regulation for the State of Maryland will
27 accept all questions or complaints from Maryland residents regarding (name of
28 licensee, **LICENSE NUMBER, AND UNIQUE IDENTIFIER**) at (address of
29 Commissioner), phone (toll–free phone number of the Commissioner)”.

30 12–411.

31 (a) [A license issued under this subtitle expires on December 31 of each
32 odd–numbered year unless it is renewed for a 2–year term as provided in subsection
33 (b) of this section] **SUBJECT TO ANY REGULATIONS THE COMMISSIONER ADOPTS**

1 IN CONNECTION WITH THE TRANSITION TO THE NATIONWIDE LICENSING
2 SYSTEM, AN INITIAL LICENSE TERM SHALL:

3 (1) BEGIN ON THE DAY THE LICENSE IS ISSUED; AND

4 (2) EXPIRE ON DECEMBER 31 OF THE YEAR:

5 (I) THE LICENSE IS ISSUED, IF THE LICENSE IS ISSUED
6 BEFORE NOVEMBER 1; OR

7 (II) SUCCEEDING THE YEAR THAT THE LICENSE IS ISSUED,
8 IF THE LICENSE IS ISSUED ON OR AFTER NOVEMBER 1.

9 (b) On or [before December] AFTER NOVEMBER 1 of [the] EACH year [of
10 expiration], a license may be renewed for a [2-year] 1-YEAR term, if the licensee:

11 (1) Otherwise is entitled to be licensed;

12 (2) Files evidence of a surety device required under § 12-412 of this
13 subtitle;

14 (3) Pays to the Commissioner a NONREFUNDABLE renewal fee of
15 [\$4,000] \$2,000; and

16 (4) Submits to the Commissioner:

17 (i) A renewal application [on] IN the form AND IN
18 ACCORDANCE WITH THE PROCESS that the Commissioner requires; [and]

19 (ii) A financial statement that complies with the requirements
20 of § 12-407(b)(4) of this subtitle; AND

21 (III) ANY OTHER INFORMATION THAT THE COMMISSIONER
22 REASONABLY REQUIRES TO DETERMINE THAT THE RENEWAL APPLICANT
23 CONTINUES TO BE ELIGIBLE TO BE LICENSED.

24 (c) IN ADDITION TO THE LICENSE RENEWAL FEE REQUIRED UNDER
25 SUBSECTION (B)(3) OF THIS SECTION, AN APPLICANT FOR A LICENSE RENEWAL
26 SHALL PAY TO THE NATIONWIDE LICENSING SYSTEM THE FEE THAT THE
27 NATIONWIDE LICENSING SYSTEM IMPOSES IN CONNECTION WITH THE RENEWAL
28 APPLICATION.

29 12-415.

1 (c) In addition to any sanctions that may be imposed by the Commissioner
2 under this subtitle, a licensee who fails to provide in a timely manner the notice
3 required under subsection (a)(1) or (b)(1) of this section shall:

4 (1) For each failure, pay to the Commissioner a penalty in the amount
5 of \$500; and

6 (2) **[File with the Commissioner an application] APPLY** for a new
7 license, together with all appropriate application and investigation fees.

8 12-424.

9 (a) The Commissioner may conduct an on-site examination of a licensee or
10 authorized delegate with not less than 7 business days prior notice.

11 (b) With good cause, the Commissioner may conduct an on-site examination
12 of a licensee or authorized delegate with no prior notice.

13 (c) The licensee shall pay all reasonably incurred costs of an examination
14 **CONDUCTED UNDER THIS SECTION, INCLUDING A PER-DAY FEE SET BY THE**
15 **COMMISSIONER FOR EACH OF THE COMMISSIONER'S EMPLOYEES ENGAGED IN**
16 **THE EXAMINATION.**

17 (d) The on-site examination may be conducted in conjunction with an
18 examination performed by a representative of a responsible supervisory agency of
19 another state.

20 (e) (1) The Commissioner, in lieu of an on-site examination, may accept
21 the examination report of a responsible supervisory agency of another state, or a
22 report prepared by an independent accounting firm.

23 (2) A report accepted under paragraph (1) of this subsection is
24 considered for all purposes as an official report of the Commissioner.

25 (f) The Commissioner may:

26 (1) Examine all books, accounts, and records the Commissioner
27 determines are necessary to conduct a complete examination; and

28 (2) Examine under oath any officer, director, or employee of the
29 licensee, or any other individual who may provide information on behalf of the
30 licensee.

31 **12-430.1.**

1 **(A) (1) NOTWITHSTANDING §§ 10-611 THROUGH 10-628 OF THE**
2 **STATE GOVERNMENT ARTICLE, AND SUBJECT TO § 12-408.1 OF THIS SUBTITLE,**
3 **THE COMMISSIONER SHALL REPORT ADJUDICATED ENFORCEMENT ACTIONS**
4 **AGAINST A MONEY TRANSMITTER OR ITS AUTHORIZED DELEGATE AND OTHER**
5 **RELEVANT INFORMATION TO THE NATIONWIDE LICENSING SYSTEM.**

6 **(2) THE COMMISSIONER SHALL ADOPT REGULATIONS**
7 **ESTABLISHING A PROCESS BY WHICH A LICENSEE OR AN APPLICANT FOR A**
8 **LICENSE MAY CHALLENGE INFORMATION ENTERED BY THE COMMISSIONER**
9 **INTO THE NATIONWIDE LICENSING SYSTEM.**

10 **(B) THE COMMISSIONER MAY SUBMIT TO THE NATIONWIDE LICENSING**
11 **SYSTEM INFORMATION REGARDING ENFORCEMENT ACTIONS AGAINST PERSONS**
12 **ENGAGED IN THE MONEY TRANSMISSION BUSINESS WHO ARE NOT LICENSEES**
13 **OR AUTHORIZED DELEGATES.**

14 SECTION 2. AND BE IT FURTHER ENACTED, That the changes made to the
15 licensing requirements for persons engaged in money transmission under §§ 12-405,
16 12-407, 12-408, and 12-411 of the Financial Institutions Article, as enacted by
17 Section 1 of this Act, shall be construed to apply only prospectively and may not be
18 interpreted to affect the validity or term of any license issued or renewed before the
19 effective date of this Act.

20 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 June 1, 2012.