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§12–412.

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

(2) "Average daily money transmission liability" means the amount of the applicant's or licensee's outstanding money transmission obligations in the State at the end of each day in a given quarter, added together and divided by the total number of days in that quarter.

(3) "Trust company" has the meaning stated in § 1–101 of the Estates and Trusts Article.

(b) (1) With an application for a new license, an applicant shall file a surety bond with the Commissioner.

(2) The bond shall run to the Commissioner, as obligee, for the benefit of:

(i) The State; and

(ii) Any individual who has been damaged by a violation of State law or regulation governing the business of money transmission committed by a licensee or an authorized delegate of a licensee.

(3) The bond shall be:

(i) In the amount required under subsection (d) of this section;

(ii) Issued by a surety company that:

1. Is authorized to do business in the State; and

2. Holds a certificate of authority issued by the Maryland Insurance Commissioner; and

(iii) Conditioned that the licensee and any authorized delegate of the licensee shall:

1. Comply with all State and federal laws and regulations governing the business of money transmission; and

2. Fulfill all obligations to all parties to a money transmission.

(4) The liability of the surety:

(i) Shall be continuous;

(ii) May not be aggregated or cumulative, whether or not the bond is renewed, continued, replaced, or modified;

(iii) May not be determined by adding together the penal sum of the bond, or any part of the penal sum of the bond, in existence at any two or more points in time;

(iv) Shall be considered to be one continuous obligation, regardless of increases or decreases in the penal sum of the bond;

(v) May not be affected by:

1. The insolvency or bankruptcy of the licensee;

2. Any misrepresentation, breach of warranty, failure to pay a premium, or any other act or omission of the licensee; or

3. The suspension of the licensee's license;

(vi) May not require an administrative enforcement action by the Commissioner as a prerequisite to liability; and

(vii) Shall continue for 3 years after the later of the date on which:

1. The bond is canceled; or

2. The licensee, for any reason, ceases to be licensed.

(5) (i) A bond may be canceled by the surety or the licensee by giving notice of cancellation to the Commissioner.

(ii) Notice under subparagraph (i) of this paragraph shall:

1. Be in writing; and

2. Be sent by certified mail, return receipt requested.

(iii) A cancellation of a bond under this paragraph is not effective until 90 days after receipt of a notice of cancellation by the Commissioner.

(6) A claim against the bond may be filed with the surety by:

(i) A claimant; or

(ii) The Commissioner for the benefit of a claimant or the State.

(7) If the amount of claims under a bond exceeds the amount of the bond, the surety:

(i) Shall pay the amount of the bond to the Commissioner for pro rata distribution to claimants; and

(ii) Is relieved of liability under the bond.

(8) (i) If the penal amount of a bond is reduced by payment of a claim or judgment, the licensee shall file a new or additional bond with the Commissioner.

(ii) The Commissioner may permit a bond to be reduced or eliminated if the amount of the licensee's payment instruments outstanding in the State are reduced.

(c) (1) A deposit in lieu of a surety bond made to satisfy the provisions of subsection (b) of this section shall:

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

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

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

(3) The Commissioner may sell or transfer investments and distribute the proceeds on the same basis as provided for claims against a surety bond under paragraph (b)(2) of this section.

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

(5) (i) The Commissioner may place the investments in the custody of any qualified trust company in this State.

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

(d) (1) The amount of the surety bond under subsection (b) of this section or the deposit in lieu of a surety bond under subsection (c) of this section shall be the greater of:

(i) $150,000; or

(ii) 100% of the applicant's average daily money transmission liability in the State calculated for the most recently completed quarter, up to a maximum of $2,000,000.

(2) The quarters for calculating the average daily money transmission liability under paragraph (1) of this subsection for any licensee required to do so shall be the quarters ending March 31, June 30, September 30, and December 31.

(e) (1) If the penal amount of a surety bond or a deposit in lieu of a surety bond is reduced by a payment of a claim or judgment, the licensee shall file with the Commissioner evidence of any new or additional surety bond or deposit in lieu of a surety bond in the amount that the Commissioner sets.

(2) If the Commissioner at any time believes that the surety bond or the deposit in lieu of a surety bond is insufficient, exhausted, or otherwise unsatisfactory, the Commissioner may require evidence of an additional surety bond or deposit in lieu of a surety bond to be filed by the licensee.

(3) Within 30 days after the Commissioner makes a written demand for the new surety bond or deposit in lieu of a surety bond, the licensee shall file the evidence of the new surety bond or deposit in lieu of a surety bond.

(f) A penalty imposed against a licensee under § 2–115(b) of this article or § 12–426(e)(2) of this subtitle may be collected and paid from the proceeds of a surety bond or a deposit in lieu of a surety bond required under this section.

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