

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 850 Session of 2015

INTRODUCED BY MACKENZIE, GROVE, A. HARRIS, MILLARD, GABLER, COHEN AND MURT, MARCH 26, 2015

AS REPORTED FROM COMMITTEE ON COMMERCE, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 7, 2016

AN ACT

1 Amending the act of September 2, 1965 (P.L.490, No.249),
2 entitled "An act providing for the licensing and regulation
3 of the business of transmitting money or credit for a fee or
4 other consideration by the issuance of money orders, by the
5 sale of checks or by other methods; conferring powers and
6 duties upon the Department of Banking; and imposing
7 penalties," further providing for title of act, for
8 definitions, for license required and for exemptions;
9 repealing provisions relating to partial exemption; further
10 providing for qualifications for a license, for application
11 for license, for fee, financial statement and security, for
12 investigation issuance of license, for term of license, for
13 renewal of licenses and for authority of the Department of
14 Banking; providing for suspension, revocation or refusal and
15 for licensee requirements; further providing for agents and
16 subagents; repealing provisions relating to hearing and
17 appeal, injunctions, rules and regulations and examinations
18 by the Secretary of Banking; and further providing for
19 penalties.

20 This act may be referred to as the Money Transmitter Act.

21 The General Assembly of the Commonwealth of Pennsylvania
22 hereby enacts as follows:

23 Section 1. The title of the act of September 2, 1965
24 (P.L.490, No.249), referred to as the Money Transmission
25 Business Licensing Law, is amended to read:

AN ACT

1 Providing for the licensing and regulation of the business of
2 transmitting money or credit for a fee or other consideration
3 by the issuance of money orders, by the sale of checks or by
4 other methods; conferring powers and duties upon the
5 Department of Banking and Securities; and imposing penalties.

6 Section 2. Section 1 of the act, amended July 2, 1996
7 (P.L.486, No.79), is amended to read:

8 Section 1. Definitions.--Unless the context clearly
9 indicates otherwise, the following words when used in this act
10 shall have the following meanings:

11 [(1) "Person" includes an individual or an organization but
12 does not include the governments of the United States or of the
13 Commonwealth of Pennsylvania.

14 (2) "Transmittal instrument" means any check, draft, money
15 order, personal money order or method for the payment of money
16 or transmittal of credit, other than a merchandise gift
17 certificate sold in the regular course of business by a vendor
18 of personal property or services.

19 (3) "Personal money order" means any transmittal instrument
20 in relation to which the purchaser or remitter appoints the
21 seller thereof as his agent for the handling of the transmittal
22 instrument or its proceeds no matter by whom such transmittal
23 instrument is signed.

24 (4) "Deliver" means surrendering a transmittal instrument to
25 the first person, who in payment for the same makes a remittance
26 of the whole or a part of the face amount thereof, whether or
27 not the person delivering the instrument charges a fee in
28 addition to the face amount and whether or not he signs the
29 same.

30 (5) "Accelerated mortgage payment providers" includes

1 persons who receive funds from mortgagors to make mortgage
2 payments to a lender or lenders, on behalf of those mortgagors,
3 in order to exceed regularly scheduled minimum payment
4 obligations under the terms of the indebtedness. This term does
5 not include persons or entities described in section 3.]

6 "Agent" means any person that provides money transmission
7 services on behalf of another person.

8 "Closed loop system" means a system in which an entity issues
9 a transmittal instrument which can be used at various physical
10 or virtual locations of that entity.

11 "Commission" means the Banking and Securities Commission of
12 the Commonwealth, as established under Subarticle C of Article
13 XI-A of the act of May 15, 1933 (P.L.565, No.111), known as the
14 Department of Banking and Securities Code.

15 "Department" means the Department of Banking and Securities
16 of the Commonwealth.

17 "Goods" means personal property bought primarily for
18 personal, family or household use.

19 "Government benefit" means money or monetary value given to
20 an individual by a Federal, State or local government agency for
21 purposes of financial assistance, including unemployment
22 compensation, supplemental nutritional assistance program
23 benefits and Social Security benefits.

24 "Hybrid closed loop system" means a system in which an entity
25 issues a transmittal instrument which may be used at a limited
26 number of establishments or entities which have a common bond to
27 the issuing entity and in which the establishments or entities
28 have a written agreement to honor the transmittal instrument.

29 "License" means a license under this act.

30 "Money" means currency or legal tender or any other product

1 ~~that is generally recognized as a medium of exchange and shall~~ <--
2 ~~include any form of virtual currency.~~

3 "Person" includes an individual or an organization but does
4 not include the Federal Government or the government of the
5 Commonwealth or any other state, or any political subdivisions
6 or instrumentalities of such governments.

7 "Personal money order" means any transmittal instrument in
8 relation to which the purchaser or remitter appoints the seller
9 thereof as the agent for the handling of the transmittal
10 instrument or its proceeds no matter by whom the transmittal
11 instrument is signed.

12 "Public utility" means the term as defined in 66 Pa.C.S. §
13 102 (relating to definitions).

14 "Services" means work, labor and services for other than a
15 commercial or business use.

16 "Stored value" means money or monetary value in a digital
17 electronic format, stored or capable of storage on an electronic
18 medium in such a manner as to be retrievable and transferable
19 electronically.

20 "Tangible net worth" means an entity's net worth less
21 intangible assets as determined by generally accepted accounting
22 principles.

23 "Transmittal instrument" means any check, draft, money order,
24 personal money order, debit card, stored value card, electronic
25 transfer or other method for the payment of money or transmittal
26 of credit, other than a merchandise gift certificate or
27 instrument with a similar purpose sold in the regular course of
28 business by a vendor of personal property or services in a
29 closed loop system or hybrid closed loop system.

30 Section 3. Section 2 of the act is amended to read:

1 Section 2. License Required.--(a) No person shall engage in
2 the business of transmitting money by means of a transmittal
3 instrument for a fee or other consideration with or on behalf of
4 an individual without first having obtained a license from the
5 [Department of Banking nor shall any person engage in such
6 business as an agent except as an agent of a person licensed or
7 exempted under this act.] department.

8 (b) This act does not apply to money transmission between
9 business entities in connection with commercial contracts,
10 unless the contracts involve money transmission for personal or
11 household purposes involving individuals.

12 Section 4. Section 3 of the act, amended July 2, 1996
13 (P.L.486, No.79), is amended to read:

14 Section 3. Exemptions.--No license shall be required
15 [hereunder of] for any of the following:

16 (1) [banks] Banks, bank and trust companies, credit unions,
17 savings banks and private banks organized under the laws of this
18 Commonwealth; similar banking institutions organized under the
19 laws of the United States or of any other state which are
20 insured by the Federal Deposit Insurance Corporation; similar
21 credit unions organized under the laws of the United States or
22 another state, and insured by the National Credit Union Share
23 Insurance Fund; and savings and loan associations and building
24 and loan associations organized under the laws of [this
25 Commonwealth] another state or of the United States; or their
26 agents.

27 (2) [agents] Agents of a person licensed under this act.

28 (3) Agents of a Federal, State or local government agency,
29 to the extent that such agents are disbursing government
30 benefits.

1 (4) Agents that receive payments from individuals on behalf
2 of persons that are creditors, public utilities or providers of
3 goods or services.

4 Section 5. Section 3.1 of the act is repealed:

5 [Section 3.1. Partial Exemption.--Accelerated mortgage
6 payment providers shall be exempt from clause (1) of section 4
7 and clause (2) of subsection (a) of section 6 relating to a net
8 worth requirement and proof thereof but otherwise shall be
9 subject to the terms and licensing requirements of this act.]

10 Section 6. Section 4 of the act, amended July 9, 1977,
11 (P.L.70, No.25), is amended to read:

12 Section 4. Qualifications for a License.--(a) To qualify
13 for a license [hereunder] an applicant shall:

14 (1) have a tangible net worth of at least five hundred
15 thousand dollars (\$500,000); and

16 [(2) in the case of an individual, have at least five years'
17 experience in business and be of good character and reputation,
18 or, in the case of an organization, have officers and directors
19 who meet the requirements specified in this clause for an
20 individual applicant; and]

21 (3) undertake to operate the business honestly, fairly and
22 in accordance with this act.

23 [No applicant shall be qualified to receive a license if he
24 or, in the event that the applicant is an organization, if any
25 of its officers or directors has been convicted within five
26 years of violating this act.]

27 (b) The department may deny a license if it finds that the
28 applicant, or a director, officer, partner, employee, agent or
29 ultimate equitable owner of ten percent or more of the
30 applicant, has been convicted of a crime of moral turpitude or

1 felony in any jurisdiction, or has been convicted of a crime
2 which, if committed in this Commonwealth, would constitute a
3 crime of moral turpitude or felony, at any time during the seven
4 years prior to the license application. For purposes of this
5 subsection, a person shall be deemed to have been convicted of a
6 crime if the person:

7 (1) has pleaded guilty or nolo contendere to a criminal
8 charge before a domestic, foreign or military court or Federal
9 magistrate; or

10 (2) has been found guilty by a decision or judgment of a
11 domestic, foreign or military court or Federal magistrate or by
12 a verdict of a jury, irrespective of the pronouncement of
13 sentence or the suspension thereof, unless the plea of guilty or
14 nolo contendere or the decision, judgment or verdict is set
15 aside, vacated, reversed or otherwise abrogated by lawful
16 judicial process.

17 (c) The department may deny a license or otherwise restrict
18 a license if it finds that the applicant, or a director,
19 officer, partner, employee, agent or ultimate equitable owner of
20 ten percent or more of the applicant:

21 (1) has had a license or license application denied, not
22 renewed, suspended or revoked by the department, another
23 Commonwealth licensing agency or any other Federal or State
24 regulatory agency;

25 (2) is the subject of an order of the department or any
26 other regulatory agency;

27 (3) has violated or failed to comply with any provision of
28 this act or any regulation, statement of policy or order of the
29 department;

30 (4) has any outstanding debt to the Commonwealth or any

1 Commonwealth agency; or
2 (5) does not possess the financial responsibility,
3 character, reputation, integrity and general fitness to command
4 confidence of the public to warrant the belief that the money
5 transmission business will be operated lawfully, honestly,
6 fairly and within the legislative intent of this act and in
7 accordance with the general laws of this Commonwealth. For
8 purposes of this clause, an applicant is not financially
9 responsible if the applicant has shown a disregard in the
10 management of the applicant's own financial condition. The
11 factors that the department may consider in making a
12 determination regarding an applicant's financial responsibility
13 shall include:

14 (i) current outstanding judgments, other than judgments
15 solely as a result of medical expenses;

16 (ii) current outstanding tax liens or other government liens
17 and filings;

18 (iii) foreclosures or bankruptcies within the past three
19 years; or

20 (iv) a pattern of seriously delinquent accounts within the
21 past three years.

22 (d) The department may impose conditions on the issuance of
23 a license. If the department determines that conditions imposed
24 upon a licensee have not been fulfilled, the department may take
25 any action authorized under this act against the licensee that
26 the department deems necessary.

27 Section 7. Section 5 of the act, amended July 2, 1996
28 (P.L.486, No.79), is amended to read:

29 Section 5. Application for License.--(a) Applications for
30 license shall be in [writing under oath and in] the form

1 prescribed by the [Department of Banking] department. Among
2 other things, the application shall state the full name of

3 (1) the applicant, if an individual;

4 (2) each partner, if the applicant is a partnership;

5 (3) each trustee and officer thereof, if the applicant is a
6 trust;

7 (4) each officer and director thereof, if the applicant is a
8 corporation, joint stock association or other unincorporated
9 association;

10 (5) each other business in which applicant and any
11 affiliated companies are engaged; and

12 (6) the name and address of each agent or subagent
13 conducting business in this Commonwealth.

14 (b) A person applying for a new or renewal license and who
15 is not located in this Commonwealth shall file with the
16 application for license an irrevocable consent, duly
17 acknowledged, that suits and actions may be commenced against
18 that person in the courts of this Commonwealth by the service of
19 process of any pleading upon the department in the usual manner
20 provided for service of process and pleadings by the statutes
21 and court rules of this Commonwealth. The consent shall provide
22 that this service shall be as valid and binding as if service
23 had been made personally upon the applicant in this
24 Commonwealth. In all cases where process or pleadings are served
25 upon the department pursuant to the provisions of this section,
26 such process or pleadings shall be served in triplicate; one
27 copy shall be filed [in the office of the Secretary of Banking]
28 with the department and the other shall be forwarded by the
29 department, by certified or registered mail, return receipt
30 requested, to the last known principal place of business in this

1 Commonwealth and to the person's principal place of business.

2 Section 8. Section 6 of the act, amended July 9, 1977
3 (P.L.70, No.25), is amended to read:

4 Section 6. Fee, Financial Statement and Security.--(a) Each
5 application for a license shall be accompanied by:

6 (1) an [investigation fee of one thousand dollars (\$1,000)
7 which shall not be subject to refund but which, if the license
8 is granted, shall constitute the license fee for the first
9 license period. The renewal fee shall be three hundred dollars
10 (\$300)] application fee of five thousand dollars (\$5,000);

11 (2) a financial statement showing a tangible net worth of at
12 least five hundred thousand dollars (\$500,000);

13 (3) a bond in the penal sum of one million dollars
14 (\$1,000,000) executed by a surety company authorized to transact
15 business within the Commonwealth of Pennsylvania or securities
16 as provided in the following subsection. The bond shall run to
17 the Commonwealth of Pennsylvania and shall be for the use of the
18 Commonwealth and of any person or persons who may have a cause
19 of action against the licensee for failure to carry out the
20 terms of any transmittal instrument which the licensee shall
21 have issued and who were residents of the Commonwealth of
22 Pennsylvania at the time the cause of action arose. The
23 condition of the bond shall be that the licensee will comply
24 with and abide by the provisions of this act and the rules and
25 regulations of the [Department of Banking] department lawfully
26 promulgated under this act and that the licensee will pay to the
27 Commonwealth, to the [Department of Banking] department or to
28 any other person any moneys that may become due from the
29 licensee to the Commonwealth or to the [Department of Banking]
30 department or to any other person under the provisions of this

1 act or of any transmittal instrument issued by the licensee
2 within this Commonwealth and who were residents of the
3 Commonwealth of Pennsylvania at the time the cause of action
4 arose. If any person shall be aggrieved by the misconduct of any
5 licensee, he may upon recovering judgment against such licensee,
6 issue execution under such judgment and maintain an action upon
7 the bond of the licensee in any court having jurisdiction of the
8 amount claimed, provided the [Department of Banking] department
9 assents thereto.

10 [(b) In lieu of the bond required by clause (3) of
11 subsection (a) hereof, the applicant may deposit with the
12 Department of Banking or with the State Treasurer of the
13 Commonwealth of Pennsylvania bonds, notes, debentures or other
14 obligations of the United States or any agency or
15 instrumentality thereof if guaranteed by the United States, or
16 such bonds, notes, debentures or other obligations of this
17 Commonwealth or of a political subdivision thereof having a
18 market value of at least one million dollars (\$1,000,000); and
19 it shall be the obligation of the licensee to see to it that the
20 securities on deposit shall have a market value of at least one
21 million dollars (\$1,000,000) at all times. The depositor shall
22 be entitled to receive all interest and dividends thereon, and
23 shall have the right, with the approval of the Department of
24 Banking, to substitute other securities for those deposited.
25 Should the securities on deposit at any time have a market value
26 of less than one million dollars (\$1,000,000) the Department of
27 Banking may revoke the license as hereinafter provided. All
28 securities deposited shall be held under the same conditions and
29 subject to the same right of execution as the bond provided for
30 in clause (3) of subsection (a) hereof.]

1 (b.1) If the [Department of Banking] department, in its
2 discretion, shall determine the bond or deposit of securities
3 provided for in clause (3) of subsection (a) [and subsection (b)
4 hereof] is not adequate, the [Department of Banking] department
5 may require an additional bond [or the deposit of additional
6 securities] in an amount up to [one million dollars
7 (\$1,000,000);] twice the average daily outstanding balance of
8 money received for transmission in this Commonwealth during the
9 thirty days preceding the department's requirement subject to
10 the same conditions and the same right of execution provided for
11 in clause (3) of subsection (a) [and subsection (b) hereof].

12 (c) Should any licensee become insolvent, the principal sum
13 of the bond [or the securities deposited in lieu of a bond]
14 shall be applied to the payment in full of claims arising out of
15 the issuance of transmittal instruments in this Commonwealth and
16 any administrative costs incurred by or fines imposed by the
17 department.

18 Section 9. Sections 7 and 8 of the act are amended to read:

19 Section 7. Investigation Issuance of License.--(a) Upon the
20 filing of [an application and the payment of the fee for
21 investigating the same, the Department of Banking] a new license
22 application, the department shall make such investigation as is
23 necessary to determine whether the applicant is qualified to
24 receive a license [under this act]. If [so], after reasonable
25 investigation of the new license application it is determined
26 that the applicant qualifies for a license, a license shall be
27 issued. If [not] it is determined that the applicant does not
28 qualify for a license, the application shall be denied.

29 (b) Whenever the [Secretary of Banking] department rejects
30 an application for a license [he] it shall furnish the applicant

1 with a written specification of the reason or reasons therefor.
2 Any applicant whose application for a license is rejected by the
3 [Secretary of Banking] department may within thirty days' notice
4 of the rejection request that the [Department of Banking]
5 department hold a hearing.

6 Section 8. Term of License.--Licenses issued under this act
7 shall be for a term [expiring January first of the year
8 following issuance] of not more than fourteen months as
9 determined by the department.

10 Section 10. Section 9 of the act, amended July 9, 1977
11 (P.L.70, No.25), is amended to read:

12 Section 9. Renewal of Licenses.--(a) All applications for
13 renewals of licenses shall be filed with the [Department of
14 Banking at least sixty days] department before the expiration
15 date of the license. Unless the department shall have given to
16 the applicant twenty days' previous notice of objections to the
17 renewal of his license based upon the violation of this act or
18 upon the licensee's failure any longer to have the
19 qualifications required for the issuance of a license, the
20 license shall be renewed upon the payment of the renewal fee of
21 five thousand dollars (\$5,000).

22 (b) The renewal application shall be accompanied by a bond
23 [or evidence of the maintenance with the State Treasurer of a
24 deposit of securities] in conformity with the requirements
25 applicable to an original application for license. The bond [or
26 securities] shall be in the same amounts and subject to the same
27 terms and conditions as in the case of an original application,
28 unless an additional bond [or deposit of securities] is required
29 under the provisions of subsection [(c)] (b.1) of section 6.

30 [(c) No investigation fee shall be payable to the Department

1 of Banking upon the filing of an application for license
2 renewal.]

3 Section 11. Section 10 of the act, amended July 2, 1996
4 (P.L.486, No.79), is amended to read:

5 Section 10. Authority of the Department [of Banking].--[(a)
6 The Department of Banking shall have the right to suspend or
7 revoke the original or any renewed license granted under this
8 act if

9 (1) the licensee's bond or securities become inadequate and
10 the licensee after notice fails forthwith to furnish an adequate
11 bond or securities in the amount required by this act; or

12 (2) the licensee shall violate any provision of the act or
13 any rule or regulation issued by the Department of Banking under
14 authority of this act; or

15 (3) the licensee shall fail to comply with any demand, rule
16 or regulation lawfully made by the Department of Banking under
17 authority of this act; or

18 (4) the licensee shall refuse to permit the Department of
19 Banking or its designated representative to make any examination
20 authorized by this act; or

21 (5) if any fact or condition is discovered which, if it had
22 been known at the time of the filing of the application for the
23 license, would have warranted the Department of Banking in
24 denying the application.

25 (b) The Department of Banking may release reports and other
26 pertinent information if it determines that release of such
27 information is reasonably necessary for the protection of the
28 public and in the interest of justice, in which case the
29 information may be released only to a representative of an
30 agency, department or instrumentality of this Commonwealth,

1 another state or Federal Government.] (a) The department shall
2 have the authority to:

3 (1) Examine any instrument, document, account, book, record
4 or file of a licensee or any person having a connection to the
5 licensee or make other investigation as may be necessary to
6 administer the provisions of this act. Pursuant to this
7 authority, the department may remove any instrument, document,
8 account, book, record or file of a licensee to a location
9 outside of the licensee's office location. A person who is not
10 licensed under this act shall be presumed to be engaged in
11 business contemplated by this act if the person advertises or
12 solicits business for which a license is required by the
13 provisions of this act. In those cases, the department is
14 authorized to examine the books, accounts, papers, records,
15 documents, files, safes and vaults of the persons for the
16 purpose of discovering violations of this act. The costs of the
17 examination shall be borne by the licensee or the entity subject
18 to the examination.

19 (2) Conduct administrative hearings on any matter pertaining
20 to this act, issue subpoenas to compel the attendance of
21 witnesses and the production of instruments, documents,
22 accounts, books and records at any hearing. The instruments,
23 documents, accounts, books and records may be retained by the
24 department until the completion of all proceedings in connection
25 with which the materials were produced. A department official
26 may administer oaths and affirmations to a person whose
27 testimony is required. In the event a person fails to comply
28 with a subpoena issued by the department or to testify on a
29 matter concerning that which the person may be lawfully
30 interrogated, on application by the department, the Commonwealth

1 Court may issue an order requiring the attendance of the person,
2 the production of instruments, documents, accounts, books and
3 records and the giving of testimony.

4 (3) Request and receive information or records of any kind,
5 including reports of criminal history record information from
6 any Federal, State, local or foreign government entity regarding
7 an applicant for a license, licensee or person related in any
8 way to the business of the applicant or licensee, at a cost to
9 be paid by the applicant or licensee.

10 (4) Issue regulations, statements of policy or orders as may
11 be necessary for the proper conduct, including safety and
12 soundness, of the money transmission business by licensees, the
13 issuance and renewal of licenses and the enforcement of this
14 act.

15 (5) Prohibit or permanently remove a person or licensee
16 responsible for a violation of this act from working in the
17 present capacity or in any other capacity of the person or
18 licensee related to activities regulated by the department.

19 (6) Order a person or licensee to make restitution for
20 actual damages to individuals caused by any violation of this
21 act.

22 (7) Issue cease and desist orders that are effective
23 immediately, subject to a hearing as specified in subsection (b)
24 within fourteen days of the issuance of the order.

25 (8) Impose such other conditions as the department deems
26 appropriate.

27 (b) A person aggrieved by a decision of the department may
28 appeal the decision of the department to the commission. The
29 appeal shall be conducted under 2 Pa.C.S. Ch. 5 Subch. A
30 (relating to practice and procedure of Commonwealth agencies).

1 (c) The department may maintain an action for an injunction
2 or other process against a person to restrain and prevent the
3 person from engaging in an activity violating this act.

4 (d) A decision of the commission, or an unappealed order of
5 the department, shall be a final order of the department and
6 shall be enforceable in a court of competent jurisdiction. The
7 department may publish final adjudications issued under this
8 section, subject to redaction or modification to preserve
9 confidentiality.

10 (e) A person aggrieved by a decision of the commission may
11 appeal the decision under 2 Pa.C.S. Ch. 7 Subch. A. (relating to
12 judicial review of Commonwealth agency action).

13 Section 12. The act is amended by adding sections to read:

14 Section 10.1. Suspension, Revocation or Refusal.--(a) The
15 department may suspend, revoke or refuse to renew a license
16 issued under this act if any fact or condition exists or is
17 discovered which, if it had existed or had been discovered at
18 the time of filing of the application for the license, would
19 have warranted the department's refusal to issue the license or
20 if a licensee or director, officer, partner, employee or owner
21 of a licensee has:

22 (1) Made a material misstatement in an application or any
23 report or submission required by this act or any department
24 regulation, statement of policy or order.

25 (2) Failed to comply with or violated any provision of this
26 act or any regulation or order promulgated or issued by the
27 department under this act.

28 (3) Engaged in dishonest, fraudulent or illegal practices or
29 conduct in a business or unfair or unethical practices or
30 conduct in connection with the money transmission business.

1 (4) Been convicted of or pleaded guilty or nolo contendere
2 to a crime of moral turpitude or felony.

3 (5) Permanently or temporarily been enjoined by a court of
4 competent jurisdiction from engaging in or continuing conduct or
5 a practice involving an aspect of the money transmission
6 business.

7 (6) Become the subject of an order of the department or any
8 other state regulatory agency denying, suspending or revoking a
9 license.

10 (7) Become the subject of a United States Postal Service
11 fraud order.

12 (8) Failed to comply with the requirements of this act to
13 make and keep records prescribed by regulation, statement of
14 policy or order of the department, to produce records required
15 by the department or to file financial reports or other
16 information that the department by regulation, statement of
17 policy or order may require.

18 (9) Demonstrated negligence or incompetence in performing an
19 act for which the licensee is required to hold a license.

20 (10) Become insolvent, meaning that the liabilities of the
21 applicant or licensee exceed the assets of the applicant or
22 licensee or that the applicant or licensee cannot meet the
23 obligations of the applicant or licensee as they mature or the
24 applicant or licensee is in such financial condition that the
25 applicant or licensee cannot continue in business with safety to
26 the customers of the applicant or licensee.

27 (b) The department may reinstate a license which was
28 previously suspended, revoked or denied renewal if all of the
29 following conditions are met:

30 (1) the condition which warranted the original action has

1 been corrected to the department's satisfaction;

2 (2) the department has reason to believe that the condition
3 is not likely to occur again; and

4 (3) the licensee satisfies all other requirements of this
5 act.

6 Section 11.1. Licensee Requirements.--A licensee shall:

7 (1) Operate in a safe and sound manner, ensuring that its
8 practices and the practices of its agents, if applicable, do not
9 create the likelihood of material loss, insolvency or
10 dissipation of assets, or otherwise materially prejudice the
11 interest of individuals who use the licensee's services to
12 transmit money.

13 (2) Comply with all applicable Federal or State laws and
14 rules pertaining to the business of money transmission.

15 (3) Register all of its agents who engage in the business of
16 money transmission involving individuals who are located in this
17 Commonwealth.

18 (4) On a date determined by the department, file a report
19 setting forth such information as the department shall require
20 concerning the money transmission business conducted by the
21 licensee. Licensees who fail to file the required report by the
22 date required by the department may be subject to a penalty of
23 one hundred dollars (\$100) for each day after the due date until
24 the report is filed.

25 (5) Provide the department with written notice within ten
26 days of any change in status, including address, ownership,
27 directors, officers, contact information and the reason for the
28 change.

29 (6) Maintain at all times the bond and tangible net worth
30 required by this act.

1 Section 13. Section 12 of the act is amended to read:

2 Section 12. Agents [and Subagents].--(a) A licensee or
3 exempted person may conduct [his] business at one or more
4 locations [within the Commonwealth] through such agents [and
5 subagents] as [he] the licensee or exempted person may from time
6 to time appoint. No license [under this act] or any license fee
7 shall be required of any such agent [or subagent].

8 (b) An agent engaged in the business of money transmission
9 under subsection (a) or subject to an exemption under section 3
10 shall be appointed pursuant to a written agreement between the
11 agent and the person on whose behalf the agent is acting.

12 (c) The written agreement shall contain at least the
13 following provisions:

14 (1) There is consent by the agent and the person on whose
15 behalf the agent is acting.

16 (2) The agent is acting on behalf of the person employing
17 the agent's service for the transmission of money.

18 (3) The agent is subject to the control of the person on
19 whose behalf the agent is acting, meaning that the licensee or
20 exempted person takes complete financial responsibility for the
21 money being transmitted from the moment an individual initiates
22 the transmission of money until the intended recipient receives
23 the transmitted money.

24 (4) There is no risk of loss to the individual initiating
25 the transaction if the agent fails to remit the funds to the
26 person on whose behalf the agent is acting.

27 (5) Receipt of funds by the agent is deemed receipt of funds
28 by the person on whose behalf the agent is acting.

29 (6) The agent may not provide money transmission outside the
30 scope of activity permissible under the written agreement

1 between the agent and the person on whose behalf the agent is
2 acting except to the extent that the agent is licensed itself or
3 operating as an agent for another person.

4 (7) Individuals doing business with the agent are aware that
5 the agent is working on behalf of the person on whose behalf the
6 agent is acting.

7 Section 14. Sections 13, 13.1, 14 and 15 of the act are
8 repealed:

9 [Section 13. Hearing and Appeal.--(a) No license shall be
10 revoked except after a hearing. The Department of Banking shall
11 hold a hearing when properly requested to do so by an applicant
12 whose application for a license has been denied. A licensee
13 whose license is suspended by the Department of Banking shall be
14 entitled to a hearing. The Department of Banking shall give the
15 applicant or licensee twenty days' written notice of the time
16 and place of hearing by registered or certified mail addressed
17 to the principal place of business of the applicant or licensee.

18 (b) A full and complete record of all hearings shall be
19 made, and the cost of such record shall be borne by the
20 applicant or licensee.

21 (c) All adjudications shall be in writing, shall contain
22 findings and the reason for the adjudication, and shall be
23 served upon all parties or their counsel personally or by
24 registered or certified mail.

25 Section 13.1. Injunctions.--If it appears to the Department
26 of Banking based upon consumer complaints, audits or evaluations
27 that any person has committed or continues to commit a violation
28 of any provision of this act or of any rule or order issued by
29 the department, then the department may apply to the
30 Commonwealth Court for an order enjoining that person from

1 violating or continuing to violate this act or any rule or order
2 and for injunctive or other relief as the nature of the case may
3 require.

4 Section 14. Rules and Regulations.--The Department of
5 Banking is hereby authorized to make such rules and regulations
6 as may be necessary or appropriate for the enforcement of this
7 act.

8 Section 15. Examinations by the Secretary of Banking.--The
9 Secretary of Banking, and any person designated by him for that
10 purpose, shall at least once every two calendar years
11 investigate the business and affairs and examine the books,
12 accounts, papers, records, documents, and files of every
13 licensee and of every person who shall be engaged in business
14 contemplated by this act. For this purpose the Secretary of
15 Banking shall have free access to the offices and places of
16 business, books, accounts, papers, records, documents, files,
17 safes and vaults of all such persons. A person, who is not
18 licensed under this act, shall be presumed to be engaged in
19 business contemplated by this act if he advertises or solicits
20 business for which a license is required by the provisions of
21 this act, and the Secretary of Banking, and any person
22 designated by him for that purpose, is in such cases authorized
23 to examine the books, accounts, papers, records, documents,
24 files, safes and vaults of such persons for the purpose of
25 discovering violations of this act. The cost for examinations
26 shall be paid by the licensee, or a person who is not licensed
27 under this act but presumed to be engaged in business
28 contemplated by this act.]

29 Section 15. Section 16 of the act, amended July 2, 1996
30 (P.L.486, No.79), is amended to read:

1 Section 16. Penalties.--Any person who directly or through
2 another violates or attempts to violate any provision of this
3 act shall be guilty of a [misdemeanor] felony, and shall be
4 fined not less than [two thousand five hundred dollars (\$2,500)]
5 five thousand dollars (\$5,000), nor more than [five thousand
6 dollars (\$5,000) or] fifty thousand dollars (\$50,000) and shall
7 be imprisoned [not less than six months nor more than two] for
8 not more than seven years in the discretion of the court. Any
9 person, whether licensed or not licensed under the provisions of
10 this act, or any director, officer, employee or agent of any
11 such person, who shall violate the provisions of this act or
12 shall direct or consent to such violations shall be subject to a
13 fine levied by the [Department of Banking] department of up to
14 [two thousand dollars (\$2,000)] ten thousand dollars (\$10,000)
15 for each offense.

16 Section 16. The amendment, addition or repeal of the title
17 and sections 1, 2, 3, 3.1, 4, 5, 6, 7, 8, 9, 10, 10.1, 11.1, 12,
18 13, 13.1, 14, 15 and 16 of the act shall not apply to a
19 transaction which was conducted prior to the effective date of
20 this section.

21 Section 17. This act shall take effect in 60 days.