

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2536 Session of 1996

INTRODUCED BY HASAY, LESCOVITZ, BARLEY, GODSHALL, COY, BAKER, STISH, FAIRCHILD, GEIST, TRELLO, STERN, WALKO, M. N. WRIGHT, STABACK, HENNESSEY AND BELFANTI, APRIL 10, 1996

AS REPORTED FROM COMMITTEE ON COMMERCE AND ECONOMIC DEVELOPMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, MAY 7, 1996

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," providing for accelerated mortgage payment
8 providers, for exemptions, for release of reports and, for
9 examinations, FOR FOREIGN APPLICANTS FOR LICENSE TO CONSENT
10 TO SERVICE OF PROCESS UPON THE DEPARTMENT, FOR INJUNCTIVE
11 POWERS AND FOR CIVIL MONEY PENALTIES.

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12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. Sections 1 and 3 of the act of September 2, 1965
15 (P.L.490, No.249), referred to as the Money Transmission
16 Business Licensing Law, are amended to read:

17 Section 1. Definitions.--Unless the context clearly
18 indicates otherwise, the following words when used in this act
19 shall have the following meanings:

20 (1) "Person" includes an individual or an organization but
21 does not include the governments of the United States or of the

1 Commonwealth of Pennsylvania.

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

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

12 (4) "Deliver" means surrendering a transmittal instrument to
13 the first person, who in payment for the same makes a remittance
14 of the whole or a part of the face amount thereof, whether or
15 not the person delivering the instrument charges a fee in
16 addition to the face amount and whether or not he signs the
17 same.

18 (5) "Accelerated mortgage payment providers" includes
19 persons who receive funds from mortgagors to make mortgage
20 payments to a lender or lenders, on behalf of those mortgagors,
21 in order to exceed regularly scheduled minimum payment
22 obligations under the terms of the indebtedness. This term does
23 not include persons or entities described in section 3 of this
24 act.

25 Section 3. Exemptions.--No license shall be required
26 hereunder of

27 (1) banks, bank and trust companies, CREDIT UNIONS, savings <—
28 banks and private banks organized under the laws of this
29 Commonwealth; similar banking institutions organized under the
30 laws of the United States or of any other state which are

1 insured by the Federal Deposit Insurance Corporation; SIMILAR ←
2 CREDIT UNIONS ORGANIZED UNDER THE LAWS OF THE UNITED STATES OR
3 ANOTHER STATE, AND INSURED BY THE NATIONAL CREDIT UNION SHARE
4 INSURANCE FUND; and savings and loan associations and building
5 and loan associations organized under the laws of this
6 Commonwealth or of the United States; or

7 (2) [incorporated telegraph companies which receive money at
8 their offices and agencies for immediate transmittal by
9 telegraph; or

10 (3)] agents of a person licensed under this act.

11 Section 2. The act is amended by adding a section to read:

12 Section 3.1. Partial Exemption.--Accelerated mortgage
13 payment providers shall be exempt from clause (1) of section 4
14 and clause (2) of subsection (a) of section 6 of this act
15 relating to a net worth requirement and proof thereof but
16 otherwise shall be subject to the terms and licensing
17 requirements of this act.

18 SECTION 3. SECTION 5 OF THE ACT, AMENDED JULY 9, 1977 ←
19 (P.L.70, NO.25), IS AMENDED TO READ:

20 SECTION 5. APPLICATION FOR LICENSE.--(A) APPLICATIONS FOR
21 LICENSE SHALL BE IN WRITING UNDER OATH AND IN THE FORM
22 PRESCRIBED BY THE DEPARTMENT OF BANKING. AMONG OTHER THINGS, THE
23 APPLICATION SHALL STATE THE FULL NAME OF

24 (1) THE APPLICANT, IF AN INDIVIDUAL;

25 (2) EACH PARTNER, IF THE APPLICANT IS A PARTNERSHIP;

26 (3) EACH TRUSTEE AND OFFICER THEREOF, IF THE APPLICANT IS A
27 TRUST;

28 (4) EACH OFFICER AND DIRECTOR THEREOF, IF THE APPLICANT IS A
29 CORPORATION, JOINT STOCK ASSOCIATION OR OTHER UNINCORPORATED
30 ASSOCIATION;

1 (5) EACH OTHER BUSINESS IN WHICH APPLICANT AND ANY
2 AFFILIATED COMPANIES ARE ENGAGED; AND

3 (6) THE NAME AND ADDRESS OF EACH AGENT OR SUBAGENT
4 CONDUCTING BUSINESS IN THIS COMMONWEALTH.

5 (B) A PERSON APPLYING FOR A NEW OR RENEWAL LICENSE AND WHO
6 IS NOT LOCATED IN THIS COMMONWEALTH SHALL FILE WITH THE
7 APPLICATION FOR LICENSE AN IRREVOCABLE CONSENT, DULY
8 ACKNOWLEDGED, THAT SUITS AND ACTIONS MAY BE COMMENCED AGAINST
9 THAT PERSON IN THE COURTS OF THIS COMMONWEALTH BY THE SERVICE OF
10 PROCESS OF ANY PLEADING UPON THE DEPARTMENT IN THE USUAL MANNER
11 PROVIDED FOR SERVICE OF PROCESS AND PLEADINGS BY THE STATUTES
12 AND COURT RULES OF THIS COMMONWEALTH. THE CONSENT SHALL PROVIDE
13 THAT THIS SERVICE SHALL BE AS VALID AND BINDING AS IF SERVICE
14 HAD BEEN MADE PERSONALLY UPON THE APPLICANT IN THIS
15 COMMONWEALTH. IN ALL CASES WHERE PROCESS OR PLEADINGS ARE SERVED
16 UPON THE DEPARTMENT PURSUANT TO THE PROVISIONS OF THIS SECTION,
17 SUCH PROCESS OR PLEADINGS SHALL BE SERVED IN TRIPLICATE; ONE
18 COPY SHALL BE FILED IN THE OFFICE OF THE SECRETARY OF BANKING
19 AND THE OTHER SHALL BE FORWARDED BY THE DEPARTMENT, BY CERTIFIED
20 OR REGISTERED MAIL, RETURN RECEIPT REQUESTED, TO THE LAST KNOWN
21 PRINCIPAL PLACE OF BUSINESS IN THIS COMMONWEALTH AND TO THE
22 PERSON'S PRINCIPAL PLACE OF BUSINESS.

23 Section 3 4. Section 10 of the act is amended to read: <—

24 Section 10. Authority of the Department of Banking.--(a)
25 The Department of Banking shall have the right to suspend or
26 revoke the original or any renewed license granted under this
27 act if

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

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

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

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

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

14 (b) The Department of Banking may release reports and other
15 pertinent information if it determines that release of such
16 information is reasonably necessary for the protection of the
17 public and in the interest of justice. In which case, the
18 information may be released only to a representative of an
19 agency, department or instrumentality of this Commonwealth,
20 another state or Federal Government.

21 SECTION 5. THE ACT IS AMENDED BY ADDING A SECTION TO READ: <—

22 SECTION 13.1. INJUNCTIONS.--IF IT APPEARS TO THE DEPARTMENT
23 OF BANKING THAT ANY PERSON HAS COMMITTED OR IS ABOUT TO COMMIT A
24 VIOLATION OF ANY PROVISION OF THIS ACT OR OF ANY RULE OR ORDER
25 ISSUED BY THE DEPARTMENT, THEN THE DEPARTMENT MAY APPLY TO THE
26 COMMONWEALTH COURT FOR AN ORDER ENJOINING THAT PERSON FROM
27 VIOLATING OR CONTINUING TO VIOLATE THIS ACT OR ANY RULE OR ORDER
28 AND FOR INJUNCTIVE OR OTHER RELIEF AS THE NATURE OF THE CASE MAY
29 REQUIRE.

30 Section 4 6. Section 15 of the act, amended July 9, 1977 <—

1 (P.L.70, No.25), is amended to read:

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

23 SECTION 7. SECTION 16 OF THE ACT IS AMENDED TO READ: <—

24 SECTION 16. PENALTIES.--ANY PERSON WHO DIRECTLY OR THROUGH
25 ANOTHER VIOLATES OR ATTEMPTS TO VIOLATE ANY PROVISION OF THIS
26 ACT SHALL BE GUILTY OF A MISDEMEANOR, AND SHALL BE FINED NOT
27 LESS THAN TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500), NOR MORE
28 THAN FIVE THOUSAND DOLLARS (\$5,000) OR SHALL BE IMPRISONED NOT
29 LESS THAN SIX MONTHS NOR MORE THAN TWO YEARS IN THE DISCRETION
30 OF THE COURT. ANY PERSON, WHETHER LICENSED OR NOT LICENSED UNDER

1 THE PROVISIONS OF THIS ACT, OR ANY DIRECTOR, OFFICER, EMPLOYEE
2 OR AGENT OF ANY SUCH PERSON, WHO SHALL VIOLATE THE PROVISIONS OF
3 THIS ACT OR SHALL DIRECT OR CONSENT TO SUCH VIOLATIONS SHALL BE
4 SUBJECT TO A FINE LEVIED BY THE DEPARTMENT OF BANKING OF UP TO
5 TWO THOUSAND DOLLARS (\$2,000) FOR EACH OFFENSE.

6 Section 5 8. This act shall take effect in 60 days.

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