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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 2536

Session of  
1996

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

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AS AMENDED ON THIRD CONSIDERATION, IN SENATE, JUNE 27, 1996

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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, 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.

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 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 <—  
24 CONSUMER COMPLAINTS, AUDITS OR EVALUATIONS THAT ANY PERSON HAS  
25 COMMITTED OR CONTINUES to commit a violation of any provision of  
26 this act or of any rule or order issued by the department, then  
27 the department may apply to the Commonwealth Court for an order  
28 enjoining that person from violating or continuing to violate  
29 this act or any rule or order and for injunctive or other relief  
30 as the nature of the case may require.

1       Section 6.   Section 15 of the act, amended July 9, 1977  
2   (P.L.70, No.25), is amended to read:

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

24       Section 7.   Section 16 of the act is amended to read:

25       Section 16.   Penalties.--Any person who directly or through  
26   another violates or attempts to violate any provision of this  
27   act shall be guilty of a misdemeanor, and shall be fined not  
28   less than two thousand five hundred dollars (\$2,500), nor more  
29   than five thousand dollars (\$5,000) or shall be imprisoned not  
30   less than six months nor more than two years in the discretion

1 of the court. Any person, whether licensed or not licensed under  
2 the provisions of this act, or any director, officer, employee  
3 or agent of any such person, who shall violate the provisions of  
4 this act or shall direct or consent to such violations shall be  
5 subject to a fine levied by the Department of Banking of up to  
6 two thousand dollars (\$2,000) for each offense.

7 Section 8. This act shall take effect in 60 days.