

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1320 Session of 2024

INTRODUCED BY DiSANTO, STREET, VOGEL, PHILLIPS-HILL AND MILLER, SEPTEMBER 16, 2024

AS AMENDED ON THIRD CONSIDERATION, OCTOBER 7, 2024

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 Securities; and
7 imposing penalties," further providing for title of act and
8 for definitions; providing for short title; and further
9 providing for license required, for exemptions, for
10 qualifications for a license, for fee, financial statement
11 and security, for liability of licensees, for licensee
12 requirements and for agents.

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

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

AN ACT

19 Providing for the licensing and regulation of the business of
20 transmitting money, virtual currency or credit for a fee or
21 other consideration by the issuance of money orders, by the
22 sale of checks or by other methods; conferring powers and
23 duties upon the Department of Banking and Securities; and

1 imposing penalties.

2 Section 2. The definitions of "agent" and "transmittal  
3 instrument" in section 1 of the act are amended and the section  
4 is amended by adding a definition to read:

5 Section 1. Definitions.--Unless the context clearly  
6 indicates otherwise, the following words when used in this act  
7 shall have the following meanings:

8 "Agent" means any person that provides money transmission or  
9 virtual currency transmission services on behalf of another  
10 person.

11 \* \* \*

12 "Transmittal instrument" means any check, draft, money order,  
13 personal money order, debit card, stored value card, electronic  
14 transfer or other method for the payment of money or virtual  
15 currency or transmittal of credit or virtual currency, other  
16 than a merchandise gift certificate or instrument with a similar  
17 purpose sold in the regular course of business by a vendor of  
18 personal property or services in a closed loop system or hybrid  
19 closed loop system.

20 "Virtual currency" means as follows:

21 (1) The term includes a digital representation of value  
22 that:

23 (i) Is used as a medium of exchange, unit of account or  
24 store of value.

25 (ii) Is not money, unless the virtual currency was adopted  
26 or authorized by a domestic or international government as a  
27 medium of exchange, whether denominated in cash.

28 (2) The term does not include:

29 (i) A transaction in which a merchant grants, as part of an  
30 affinity or rewards program, value that cannot be taken from or

1 exchanged with the merchant for money, bank credit or virtual  
2 currency.

3 (ii) A digital representation of value issued by or on  
4 behalf of a publisher and used solely within an online game,  
5 game platform or family of games sold by the same publisher or  
6 offered on the same game platform.

7 Section 3. The act is amended by adding a section to read:

8 Section 1.1. Short Title.--This act shall be known and may  
9 be cited as the Money Transmission and Virtual Currency  
10 Transmission Business Licensing Law.

11 Section 4. Sections 2, 3(1), 4(a)(1) and (c)(5) introductory  
12 paragraph, 6 heading and (a)(2) and (3) and (b.1), 11(a),  
13 ~~11.1(2)~~ 11.1(1), (2), (3) and (4) and 12(b) and (c)(2), (3) and <--  
14 (6) of the act are amended to read:

15 Section 2. License Required.--(a) No person shall [engage]:

16 (1) Engage in the business of transmitting money by means of  
17 a transmittal instrument for a fee or other consideration with  
18 or on behalf of an individual without first having obtained a  
19 ~~money transmission~~ license from the department. <--

20 (2) Engage in the business of transmitting virtual currency  
21 by means of a transmittal instrument for a fee or other  
22 consideration with or on behalf of an individual without first  
23 having obtained a virtual currency transmission license from the <--  
24 department.

25 (b) This act does not apply to money transmission or virtual  
26 currency transmission between business entities in connection  
27 with commercial contracts, unless the contracts involve money  
28 transmission or virtual currency transmission for personal or  
29 household purposes involving individuals.

30 Section 3. Exemptions.--No license shall be required for any

1 of the following:

2 (1) Banks, bank and trust companies, credit unions, savings  
3 banks and [private banks] trust companies organized under the  
4 laws of this Commonwealth; similar banking institutions  
5 organized under the laws of the United States or of any other  
6 state [which are insured by the Federal Deposit Insurance  
7 Corporation]; similar credit unions organized under the laws of  
8 the United States or another state[, and insured by the National  
9 Credit Union Share Insurance Fund]; and savings and loan  
10 associations and building and loan associations organized under  
11 the laws of another state or of the United States; or their  
12 affiliates or agents.

13 \* \* \*

14 Section 4. Qualifications for a License.--(a) To qualify  
15 for a license an applicant shall:

16 (1) have a tangible net worth of at least five hundred  
17 thousand dollars (\$500,000) as determined by audited financials  
18 prepared in accordance with United States generally accepted  
19 accounting principles; and

20 \* \* \*

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

25 \* \* \*

26 (5) does not possess the financial responsibility,  
27 character, reputation, integrity and general fitness to command  
28 confidence of the public to warrant the belief that the money  
29 transmission or virtual currency transmission business will be  
30 operated lawfully, honestly, fairly and within the legislative

1 intent of this act and in accordance with the general laws of  
2 this Commonwealth. For purposes of this clause, an applicant is  
3 not financially responsible if the applicant has shown a  
4 disregard in the management of the applicant's own financial  
5 condition. The factors that the department may consider in  
6 making a determination regarding an applicant's financial  
7 responsibility shall include:

8 \* \* \*

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

11 \* \* \*

12 (2) a financial statement showing a tangible net worth of at  
13 least five hundred thousand dollars (\$500,000) as determined by  
14 audited financials prepared in accordance with United States  
15 generally accepted accounting principles;

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

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

11 (b.1) If the department, in its discretion, shall determine  
12 the bond [or deposit of securities] provided for in clause (3)  
13 of subsection (a) is not adequate, the department may, after an  
14 examination and a consent agreement or order, require an  
15 additional bond in an amount up to the average daily outstanding  
16 balance of money received for transmission in this Commonwealth  
17 during the thirty days preceding the department's requirement  
18 plus an additional ten percent of the amount of the average  
19 daily outstanding balance subject to the same conditions and the  
20 same right of execution provided for in clause (3) of subsection  
21 (a).

22 \* \* \*

23 Section 11. Liability of Licensees.--(a) Every licensee  
24 shall be liable for the payment of all moneys or virtual  
25 currency covered by transmittal instruments which he issues in  
26 this Commonwealth whether directly or through an agent and  
27 whether as a maker or a drawer.

28 \* \* \*

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

30 \* \* \*

<--

1 (1) OPERATE IN A SAFE AND SOUND MANNER, ENSURING THAT ITS  
2 PRACTICES AND THE PRACTICES OF ITS AGENTS, IF APPLICABLE, DO NOT  
3 CREATE THE LIKELIHOOD OF MATERIAL LOSS, INSOLVENCY OR  
4 DISSIPATION OF ASSETS, OR OTHERWISE MATERIALLY PREJUDICE THE  
5 INTEREST OF INDIVIDUALS WHO USE THE LICENSEE'S SERVICES TO  
6 TRANSMIT MONEY OR VIRTUAL CURRENCY.

7 (2) Comply with all applicable Federal or State laws and  
8 rules pertaining to the business of money transmission[.] or  
9 virtual currency transmission, including 12 U.S.C. Ch. 21  
10 (relating to financial recordkeeping) and 31 U.S.C. Ch. 53  
11 (relating to monetary transactions).

12 (3) Register all of its agents who engage in the business of  
13 money transmission or virtual currency transmission involving  
14 individuals who are located in this Commonwealth.

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

23 \* \* \*

24 Section 12. Agents.--\* \* \*

25 (b) An agent engaged in the business of money transmission  
26 or virtual currency transmission under subsection (a) or subject  
27 to an exemption under section 3 shall be appointed pursuant to a  
28 written agreement between the agent and the person on whose  
29 behalf the agent is acting.

30 (c) The written agreement shall contain at least the

1 following provisions:

2 \* \* \*

3 (2) The agent is acting on behalf of the person employing  
4 the agent's service for the transmission of money or virtual  
5 currency.

6 (3) The agent is subject to the control of the person on  
7 whose behalf the agent is acting, meaning that the licensee or  
8 exempted person takes complete financial responsibility for the  
9 money or virtual currency being transmitted from the moment an  
10 individual initiates the transmission of money or virtual  
11 currency until the intended recipient receives the transmitted  
12 money or virtual currency.

13 \* \* \*

14 (6) The agent may not provide money transmission or virtual  
15 currency transmission outside the scope of activity permissible  
16 under the written agreement between the agent and the person on  
17 whose behalf the agent is acting except to the extent that the  
18 agent is licensed itself or operating as an agent for another  
19 person.

20 \* \* \*

21 Section 5. This act shall take effect in 60 days.