

1 AN ACT concerning financial regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Transmitters of Money Act is amended by  
5 changing Sections 40, 45, and 75 as follows:

6 (205 ILCS 657/40)

7 Sec. 40. Renewals of license.

8 (a) As a condition for renewal of a license, a licensee  
9 must submit to the Director, and the Director must receive, on  
10 or before December 1 of each year, an application for renewal  
11 made in writing and under oath on a form prescribed by the  
12 Director. A licensee whose application for renewal is not  
13 received by the Department on or before December 31 shall not  
14 have its license renewed and shall be required to submit to the  
15 Director an application for a new license in accordance with  
16 Section 25. Upon a showing of good cause, the Director may  
17 extend the deadline for the filing of an application for  
18 renewal. The application for renewal of a license shall contain  
19 or be accompanied by all of the following:

20 (1) The name of the licensee and the address of the  
21 principal place of business of the licensee.

22 (2) (Blank) ~~A list of all locations where the licensee~~  
23 ~~is conducting business under its license and a list of all~~  
24 ~~authorized sellers through whom the licensee is conducting~~  
25 ~~business under its license, including the name and business~~  
26 ~~address of each authorized seller.~~

27 (3) Audited financial statements covering the past  
28 year of operations, prepared in accordance with generally  
29 accepted accounting principles, showing the financial  
30 condition of the licensee. The licensee shall submit the  
31 audited financial statement after the application for  
32 renewal has been approved. The audited financial statement

1 must be received by the Department no later than 120 days  
2 after the end of the licensee's fiscal year. If the  
3 licensee is a wholly owned subsidiary or is eligible to  
4 file consolidated federal income tax returns with its  
5 parent, the licensee may submit unaudited financial  
6 statements if accompanied by the audited financial  
7 statements of the parent company for its most recently  
8 ended year.

9 (4) A statement of the dollar amount and number of  
10 money transmissions and payment instruments sold, issued,  
11 exchanged, or transmitted in this State by the licensee and  
12 its authorized sellers for the past year.

13 (5) A statement of the dollar amount of uncompleted  
14 money transmissions and payment instruments outstanding or  
15 in transit, in this State, as of the most recent quarter  
16 available.

17 (6) The annual license renewal fees and any penalty  
18 fees as provided by Section 45 of this Act.

19 (7) Evidence sufficient to prove to the satisfaction of  
20 the Director that the licensee has complied with all  
21 requirements under Section 20 relating to its net worth,  
22 under Section 30 relating to its surety bond or other  
23 security, and under Section 50 relating to permissible  
24 investments.

25 (8) A statement of a change in information provided by  
26 the licensee in its application for a license or its  
27 previous applications for renewal including, but not  
28 limited to, new directors, officers, authorized sellers,  
29 or clearing banks and material changes in the operation of  
30 the licensee's business.

31 (b) Each licensee must submit to the Director as of the  
32 close of business on December 31 of each year a written  
33 description of the licensee's general procedures by which it  
34 intends to enter into contracts to engage in money transmission  
35 in this State. This description must include the licensee's  
36 policies and procedures and other details regarding all of the

1 following matters:

2 (1) The number of authorized sellers and projected  
3 sales volume for travelers checks, money orders and all  
4 other transmission instruments sold.

5 (2) The procedures for authorized seller selection,  
6 including the method of ascertaining the authorized  
7 sellers' credit standing.

8 (3) The procedures that authorized sellers shall  
9 follow relating to:

10 (A) recordkeeping;

11 (B) safeguarding travelers checks, money orders,  
12 and all other instruments or orders for the  
13 transmission or payment of money;

14 (C) remittance of proceeds of sales of travelers  
15 checks, money orders, and all other instruments or  
16 orders for transmission or for payment of money sold to  
17 the public, including the time within which such  
18 proceeds are required to be remitted to the licensee  
19 and remittance procedures; and

20 (D) reporting procedures to be followed by  
21 authorized sellers when reporting to the licensee the  
22 sale of travelers checks, money orders, and all other  
23 instruments or orders for the transmission or payment  
24 of money sold to the public, including but not limited  
25 to the time within which such sales are to be reported  
26 to the licensee, and procedures for reporting such  
27 sales.

28 (4) Procedures for distributing policies and  
29 procedures pertaining to authorized sellers and the  
30 licensee's program to ensure authorized sellers'  
31 compliance.

32 (5) The licensee's policy relating to loans to and  
33 investment in authorized sellers except loans and  
34 investments made by a regulated financial institution in  
35 the ordinary course of its business.

36 (6) Such other information and documentation as the

1       Director may require. Such information shall be provided  
2       within 45 days of December 31, and at such other times as  
3       the Director may require.

4       In addition, each licensee shall submit to the Director as  
5       of the close of business on December 31 of each year a listing  
6       in alphabetical order of its authorized sellers in this State  
7       showing their full names and addresses and licensee assigned  
8       identification number grouped by the category of transmission  
9       activity the licensee has authorized the authorized sellers to  
10      conduct on its behalf.

11      (c) Where possible, all information required to be provided  
12      under this Section must be provided by electronic means.

13      (Source: P.A. 92-400, eff. 1-1-02.)

14           (205 ILCS 657/45)

15           Sec. 45. Fees.

16           (a) The Director shall charge and collect fees, which shall  
17      be nonrefundable unless otherwise indicated, in accordance  
18      with the provisions of this Act as follows:

19           (1) For applying for a license, an application fee of  
20      \$100 and a license fee, which shall be refunded if the  
21      application is denied or withdrawn, of \$100 plus \$50 ~~\$10~~  
22      for each location at which the applicant and its authorized  
23      sellers are conducting business or propose to conduct  
24      business excepting the applicant's principal place of  
25      business.

26           (2) For renewal of a license, a fee of \$100 plus \$50  
27      ~~\$10~~ for each location at which the licensee and its  
28      authorized sellers are conducting business, except the  
29      licensee's principal place of business.

30           (3) For an application to add an authorized seller  
31      location, \$50 ~~\$10~~ for each authorized seller location.

32           (4) For service of process or other notice upon the  
33      Director as provided by Section 100, a fee of \$10.

34           (5) For an application for renewal of a license  
35      received by the Department after December 1, a penalty fee

1 of \$10 per day for each day after December 1 in addition to  
2 any other fees required under this Act unless an extension  
3 of time has been granted by the Director.

4 (6) For failure to submit financial statements as  
5 required by Section 40, a penalty fee of \$10 per day for  
6 each day the statement is late unless an extension of time  
7 has been granted by the Director.

8 (b) Beginning one year after the effective date of this  
9 Act, the Director may, by rule, amend the fees set forth in  
10 this Section.

11 (c) All moneys received by the Department under this Act  
12 shall be deposited into the Financial Institutions Fund.

13 (Source: P.A. 92-400, eff. 1-1-02.)

14 (205 ILCS 657/75)

15 Sec. 75. Authorized sellers.

16 (a) A licensee may conduct the business regulated under  
17 this Act at one or more locations in this State through  
18 authorized sellers designated by the licensee.

19 (b) A licensee shall not allow a person to act as its  
20 authorized seller until all applicable requirements of this Act  
21 have been complied with and the name and address of the person,  
22 on a form prescribed by the Director, along with all applicable  
23 fees have been submitted to the Department by the licensee.

24 (c) A licensee shall enter into a contract with its  
25 authorized seller detailing the nature and scope of the  
26 relationship between the licensee and the authorized seller.  
27 The contract between a licensee and an authorized seller must  
28 require the authorized seller to operate in full compliance  
29 with the laws of this State and of the United States. The  
30 licensee shall provide the Director with the sample written  
31 contract.

32 Each written contract between a licensee and an authorized  
33 seller entered into or renewed after the effective date of this  
34 amendatory Act of the 93rd General Assembly shall provide all  
35 of the following:

1           (1) A description of the category or categories of  
2 money transmission activity the licensee is authorized to  
3 lawfully engage in under its license that it may do through  
4 an agent.

5           (2) An acknowledgment that the Director reserves the  
6 right to inspect, with or without prior notice to the  
7 licensee or the licensee's authorized sellers, the books  
8 and records of the authorized sellers of the licensee.

9           (3) That authorized sellers shall not sell any  
10 travelers check, money order, or other money transmission  
11 instrument in this State unless the name of the licensee  
12 shall clearly appear on the face of the instrument and the  
13 licensee shall not condition its engagement as obligor  
14 under the payment instrument upon the remittance of the  
15 proceeds of sale from the authorized seller.

16           (4) That an authorized seller shall not sell any  
17 travelers check, money order, or other money transmission  
18 instrument in this State unless the authorized seller has  
19 provided the Director with a written and irrevocable  
20 consent to examine, have access to, and retain copies of  
21 all of its books and records, wherever maintained, relating  
22 to these activities.

23           (5) That authorized sellers in this State are under a  
24 duty to act only as authorized under the agency contract  
25 and that an authorized seller that exceeds its authority is  
26 subject to cancellation of the agency contract and may  
27 result in further disciplinary action against the licensee  
28 by the Director.

29           For each contract entered into before the effective date of  
30 this amendatory Act of the 93rd General Assembly, a notice  
31 containing the information in items (1) through (5) of this  
32 subsection shall be sent by each licensee to each of its agents  
33 in Illinois within 45 days after the effective date of this  
34 amendatory Act of the 93rd General Assembly.

35           (d) The financial responsibility of a licensee for the  
36 actions of its authorized seller shall not exceed the amount of

1 funds received by the authorized seller on behalf of its  
2 licensee for transmission.

3 (e) An authorized seller has an affirmative duty not to (1)  
4 commit fraud or misrepresentation and (2) submit fraudulent  
5 statements to the licensee. A licensee shall, as soon as  
6 practical, report to the Director and to any other appropriate  
7 official of this State or of the United States when it has  
8 probable cause to believe an authorized seller has violated the  
9 affirmative duty set forth in this subsection.

10 (f) The licensee shall require the authorized seller to  
11 hold in trust for the licensee from the moment of receipt the  
12 proceeds of any business transacted under this Act in an amount  
13 equal to the amount of proceeds due the licensee less the  
14 amount due the authorized seller. The funds shall remain the  
15 property of the licensee whether or not commingled by the  
16 authorized seller with its own funds. In the event that the  
17 license is revoked by the Director, all proceeds then held in  
18 trust by authorized sellers of that licensee shall be deemed to  
19 have been assigned to the Director. If an authorized seller  
20 fails to remit funds to the licensee in accordance with the  
21 time specified in its contract with the licensee, the licensee  
22 may bring a civil action against the authorized seller for 3  
23 times the actual damages. The Director may provide by rule a  
24 maximum remittance time for authorized sellers.

25 (g) A licensee shall, upon discovery, immediately report to  
26 the Director, and an authorized seller, shall upon discovery,  
27 immediately report to its licensee, the theft or loss of any  
28 payment instrument from the licensee or authorized seller in  
29 Illinois, having a value in excess of \$100 or an aggregate  
30 value of \$1,000 in any 3 month period.

31 (h) Upon suspension or revocation of a license, the failure  
32 of a licensee to renew its license, or the denial of the  
33 renewal of a license, the licensee shall notify its authorized  
34 sellers of the Director's action and require them to  
35 immediately cease operation as its authorized sellers.

36 (i) A licensee shall report the removal of an authorized

1 seller location or the termination of operations of an  
2 authorized seller location to the Director on a quarterly  
3 basis.

4 (j) No authorized seller shall act outside its scope of  
5 authority as defined by this Act and by its contract with the  
6 licensee with regard to any transaction regulated by this Act.

7 (Source: P.A. 88-643, eff. 1-1-95.)