

1 AN ACT concerning transmitters of money.

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 5, 25, 40, 45, 55, 65, 75, and 90 and
6 adding Section 93 as follows:

7 (205 ILCS 657/5)

8 Sec. 5. Definitions. As used in this Act, unless the
9 context otherwise requires, the words and phrases defined in
10 this Section have the meanings set forth in this Section.

11 "Authorized seller" means a person not an employee of a
12 licensee who engages in the business regulated by this Act on
13 behalf of a licensee under a contract between that person and
14 the licensee.

15 "Bill payment service" means the business of transmitting
16 money on behalf of an Illinois resident for the purpose of
17 paying the resident's bills.

18 "Controlling person" means a person owning or holding the
19 power to vote 25% or more of the outstanding voting
20 securities of a licensee or the power to vote the securities
21 of another controlling person of the licensee. For purposes
22 of determining the percentage of a licensee controlled by a
23 controlling person, the person's interest shall be combined
24 with the interest of any other person controlled, directly or
25 indirectly, by that person or by a spouse, parent, or child
26 of that person.

27 "Department" means the Department of Financial
28 Institutions.

29 "Director" means the Director of Financial Institutions.

30 "Licensee" means a person licensed under this Act.

31 "Location" means a place of business at which activity

1 regulated by this Act occurs.

2 "Material litigation" means any litigation that,
3 according to generally accepted accounting principles, is
4 deemed significant to a licensee's financial health and would
5 be required to be referenced in a licensee's annual audited
6 financial statements, reports to shareholders, or similar
7 documents.

8 "Money" means a medium of exchange that is authorized or
9 adopted by a domestic or foreign government as a part of its
10 currency and that is customarily used and accepted as a
11 medium of exchange in the country of issuance.

12 "Money transmitter" means a person who is located in or
13 doing business in this State and who directly or through
14 authorized sellers does any of the following in this State:

15 (1) Sells or issues payment instruments.

16 (2) Engages in the business of receiving money for
17 transmission or transmitting money.

18 (3) Engages in the business of exchanging, for
19 compensation, money of the United States Government or a
20 foreign government to or from money of another
21 government.

22 "Outstanding payment instrument" means, unless otherwise
23 treated by or accounted for under generally accepted
24 accounting principles on the books of the licensee, a payment
25 instrument issued by the licensee that has been sold in the
26 United States directly by the licensee or has been sold in
27 the United States by an authorized seller of the licensee and
28 reported to the licensee as having been sold, but has not
29 been paid by or for the licensee.

30 "Payment instrument" means a check, draft, money order,
31 traveler's check, stored value card, or other instrument or
32 memorandum, written order or written receipt for the
33 transmission or payment of money sold or issued to one or
34 more persons whether or not that instrument or order is

1 negotiable. Payment instrument does not include an
2 instrument that is redeemable by the issuer in merchandise or
3 service, a credit card voucher, or a letter of credit. A
4 written order for the transmission or payment of money that
5 results in the issuance of a check, draft, money order,
6 traveler's check, or other instrument or memorandum is not a
7 payment instrument.

8 "Person" means an individual, partnership, association,
9 joint stock association, corporation, or any other form of
10 business organization.

11 "Transmitting money" means the transmission of money by
12 any means, including transmissions to or from locations
13 within the United States or to and from locations outside of
14 the United States by payment instrument, facsimile or
15 electronic transfer, or otherwise, and includes bill payment
16 services.

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

18 (205 ILCS 657/25)

19 Sec. 25. Application for license.

20 (a) An application for a license must be in writing,
21 under oath, and in the form the Director prescribes. The
22 application must contain or be accompanied by all of the
23 following:

24 (1) The name of the applicant and the address of
25 the principal place of business of the applicant and the
26 address of all locations and proposed locations of the
27 applicant in this State.

28 (2) The form of business organization of the
29 applicant, including:

30 (A) a copy of its articles of incorporation
31 and amendments thereto and a copy of its bylaws,
32 certified by its secretary, if the applicant is a
33 corporation;

1 (B) a copy of its partnership agreement,
2 certified by a partner, if the applicant is a
3 partnership; or

4 (C) a copy of the documents that control its
5 organizational structure, certified by a managing
6 official, if the applicant is organized in some
7 other form.

8 (3) The name, business and home address,
9 fingerprints, and a chronological summary of the business
10 experience, material litigation history, and felony
11 convictions over the preceding 10 years of:

12 (A) the proprietor, if the applicant is an
13 individual;

14 (B) every partner, if the applicant is a
15 partnership;

16 (C) each officer, director, and controlling
17 person, if the applicant is a corporation; and

18 (D) each person in a position to exercise
19 control over, or direction of, the business of the
20 applicant, regardless of the form of organization of
21 the applicant.

22 (4) Financial statements, not more than one year
23 old, prepared in accordance with generally accepted
24 accounting principles and audited by a licensed public
25 accountant or certified public accountant showing the
26 financial condition of the applicant and an unaudited
27 balance sheet and statement of operation as of the most
28 recent quarterly report before the date of the
29 application, certified by the applicant or an officer or
30 partner thereof. If the applicant is a wholly owned
31 subsidiary or is eligible to file consolidated federal
32 income tax returns with its parent, however, unaudited
33 financial statements for the preceding year along with
34 the unaudited financial statements for the most recent

1 quarter may be submitted if accompanied by the audited
2 financial statements of the parent company for the
3 preceding year along with the unaudited financial
4 statement for the most recent quarter.

5 (5) Filings of the applicant with the Securities
6 and Exchange Commission or similar foreign governmental
7 entity (English translation), if any.

8 (6) A list of all other states in which the
9 applicant is licensed as a money transmitter and whether
10 the license of the applicant for those purposes has ever
11 been withdrawn, refused, canceled, or suspended in any
12 other state, with full details.

13 (7) A list of all money transmitter locations and
14 proposed locations in this State.

15 (8) A sample of the contract for authorized
16 sellers.

17 (9) A sample form of the proposed payment
18 instruments to be used in this State.

19 (10) The name and business address of the clearing
20 banks through which the applicant intends to conduct any
21 business regulated under this Act.

22 (11) A surety bond as required by Section 30 of
23 this Act.

24 (12) The applicable fees as required by Section 45
25 of this Act.

26 (13) A written consent to service of process as
27 provided by Section 100 of this Act.

28 (14) A written statement that the applicant is in
29 full compliance with and agrees to continue to fully
30 comply with all state and federal statutes and
31 regulations relating to money laundering.

32 (15) All additional information the Director
33 considers necessary in order to determine whether or not
34 to issue the applicant a license under this Act.

1 (b) The Director may, for good cause shown, waive, in
2 part, any of the requirements of this Section.

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

4 (205 ILCS 657/40)

5 Sec. 40. Renewals of license. As a condition for
6 renewal of a license, a licensee must submit to the Director,
7 and the Director must receive, on or before December 1 of
8 each year, an application for renewal made in writing and
9 under oath on a form prescribed by the Director. A licensee
10 whose application for renewal is not received by the
11 Department on or before December 31 shall not have its
12 license renewed and shall be required to submit to the
13 Director an application for a new license in accordance with
14 Section 25. Upon a showing of good cause, the Director may
15 extend the deadline for the filing of an application for
16 renewal. The application for renewal of a license shall
17 contain or be accompanied by all of the following:

18 (1) The name of the licensee and the address of the
19 principal place of business of the licensee.

20 (2) A list of all locations where the licensee is
21 conducting business under its license and a list of all
22 authorized sellers through whom the licensee is
23 conducting business under its license, including all
24 information regarding authorized sellers as required by
25 this Act ~~the-name-and-business-address-of-each-authorized~~
26 ~~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
33 statement must be received by the Department no later

1 than 120 days after the end of the licensee's fiscal
2 year. If the licensee is a wholly owned subsidiary or is
3 eligible to file consolidated federal income tax returns
4 with its parent, the licensee may submit unaudited
5 financial statements if accompanied by the audited
6 financial statements of the parent company for its most
7 recently ended year.

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

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

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

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

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

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

31 (205 ILCS 657/45)

32 Sec. 45. Fees.

33 (a) The Director shall charge and collect fees, which

1 shall be nonrefundable unless otherwise indicated, in
2 accordance with the provisions of this Act as follows:

3 (1) For applying for a license, an application fee
4 of \$300 ~~\$100~~ and a license fee, which shall be refunded
5 if the application is denied or withdrawn, of \$300 ~~\$100~~
6 plus \$15 ~~\$10~~ for each location at which the applicant and
7 its authorized sellers are conducting business or propose
8 to conduct business excepting the applicant's principal
9 place of business.

10 (2) For renewal of a license, a fee of \$300 ~~\$100~~
11 plus \$15 ~~\$10~~ for each location at which the licensee and
12 its authorized sellers are conducting business, except
13 the licensee's principal place of business.

14 (3) For an application to add an authorized seller
15 location, \$15 ~~\$10~~ for each authorized seller location.

16 (4) For service of process or other notice upon the
17 Director as provided by Section 100, a fee of \$15 ~~\$10~~.

18 (5) For an application for renewal of a license
19 received by the Department after December 1, a penalty
20 fee of \$100 ~~\$10~~ per day for each day after December 1 in
21 addition to any other fees required under this Act unless
22 an extension of time has been granted by the Director.

23 (6) For failure to submit financial statements as
24 required by Section 40, a penalty fee of \$100 ~~\$10~~ per day
25 for each day the statement is late unless an extension of
26 time has been granted by the Director.

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

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

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

1 Sec. 55. Reporting; examination; investigation.

2 (a) The Director may require from a licensee any
3 reports, under penalty of perjury, concerning the licensee's
4 or its authorized seller's business conducted under the
5 license issued under this Act that the Director considers
6 necessary for the enforcement of this Act.

7 (b) A licensee must report to the Director any change of
8 its principal place of business, or its headquarters office
9 if different from its principal place of business, even if
10 located outside of this State and a change of any other
11 location at which it or any of its authorized sellers are
12 conducting business regulated by this Act, within 15 days
13 after the effective date of the change.

14 (c) A licensee must report to the Director any of the
15 following significant developments pertaining to it or any
16 authorized seller within 15 days after the licensee has
17 actual notice of its occurrence:

18 (1) The filing for bankruptcy or for reorganization
19 under the bankruptcy laws.

20 (2) The institution of license revocation or
21 suspension procedures against the licensee in any state.

22 (3) A felony indictment related to the money
23 transmission activities of the licensee or its authorized
24 sellers in this State or of the licensee's or authorized
25 seller's, officers, directors, controlling persons, or
26 principals.

27 (4) A felony conviction related to the money
28 transmission activities of the licensee or its authorized
29 sellers in this State or of the licensee's or authorized
30 seller's, officers, directors, controlling persons or
31 principals.

32 (d) A licensee that is a publicly traded corporation or
33 a subsidiary of a publicly traded corporation or a
34 nonpublicly traded corporation must notify the Director

1 within 15 days whenever a person becomes a controlling
2 person. Upon notification, the Director may require all
3 information he considers necessary to determine if a new
4 application is required. A licensee that is an entity other
5 than a corporation shall submit a new application to the
6 Director seeking prior approval whenever a person proposes to
7 become a controlling person or acquire an ownership interest.

8 (e) The Director at any time either in person or through
9 an appointed representative may visit and examine a licensee
10 or authorized seller. Unless it will interfere with the
11 Director's duties under this Act, reasonable notice shall be
12 given to the licensee or authorized seller. In conducting
13 the examination, the Director or appointed representative
14 shall have full and free access to all the books, papers, and
15 records of the licensee that relate to its business and to
16 the books, papers, and records kept by any of its authorized
17 sellers and may examine the directors, officers, members,
18 agents, and employees of any licensee or authorized seller or
19 any other person in relation to its affairs, transactions,
20 and condition.

21 (f) On-site examinations of licensees or authorized
22 sellers prescribed by this Act may be conducted in
23 conjunction with representatives of other State agencies or
24 agencies of another state or of the United States, as
25 determined by the Director.

26 (g) For the purpose of defraying examination expenses
27 incurred by the Director, a licensee or authorized seller
28 shall pay an examination fee established by rule and the
29 actual expenses of the examination.

30 (h) A licensee shall provide the Director with a report,
31 in a form approved by the Director, of all Cash Transaction
32 Reports and Suspicious Activity Reports required to be filed
33 with the federal government, whether by the licensee or any
34 authorized sellers. The report shall be made to the Director

1 on a quarterly basis.

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

3 (205 ILCS 657/65)

4 Sec. 65. Notice of source of instrument; transaction
5 records.

6 (a) Every payment instrument sold through an authorized
7 seller shall bear the name of the licensee and a unique
8 consecutive number clearly stamped or imprinted on it. When
9 an order for the transmission of money results in the
10 issuance of a payment instrument, both the order and the
11 payment instrument may bear the same unique number.

12 (b) A licensee or authorized seller shall create a
13 record, which may be reduced to computer or other electronic
14 medium, upon receiving any money from a customer.

15 (c) For each payment instrument sold, the licensee shall
16 require the authorized seller to record the face amount of
17 the payment instrument and the serial number of the payment
18 instrument.

19 (d) For each transmission of money, the licensee or
20 authorized seller shall record the date the money was
21 received, the face amount of the payment instrument, the name
22 of the customer, the manner of transmission, including the
23 identity and location of any bank or other financial
24 institution receiving or otherwise involved in accomplishing
25 the transmission, the location to which the money is
26 transmitted if different from the bank or other financial
27 institution required to be recorded, the name of the intended
28 recipient, and the date the transmission was accomplished or
29 the money was refunded to the customer due to an inability to
30 transmit or failure of the intended recipient to receive or
31 obtain the money transmitted. The transmission shall be made
32 by the licensee or authorized seller within 3 business days
33 after the receipt of the money to be transmitted. The

1 licensee or authorized seller, in addition to the records
2 required to be kept, shall issue a receipt to each person
3 delivering or depositing money with the licensee or
4 authorized seller indicating the date of the transaction, the
5 face amount of the payment instrument, to whom the money is
6 to be transmitted, the service charge, the rate of exchange,
7 the amount of funds stated in the currency received by the
8 recipient, and the name and address of the licensee or
9 authorized seller. The licensee or authorized seller shall
10 keep a copy of every receipt in a permanent record book or
11 maintain the data embodied in the receipt using photographic,
12 electronic, or other means.

13 (e) For each exchange of money of the United States
14 government or a foreign government to or from money of
15 another government, the licensee or authorized seller shall
16 record the date of the transaction, the amount of the
17 transaction, the amount of funds stated in the currency
18 received by the recipient, and the rate of exchange at the
19 time of the transaction. The licensee or authorized seller,
20 in addition to the records required to be kept, shall issue a
21 receipt to each person delivering or depositing money with
22 the licensee or authorized seller indicating the date of the
23 transaction, the amount of the transaction, the service
24 charge, and the name and address of the licensee or
25 authorized seller making the transaction. The licensee or
26 authorized seller shall keep a copy of every receipt in a
27 permanent record book or maintain data embodied in the
28 receipt using photographic, electronic, or other means.

29 (f) Records required to be kept by the licensee or
30 authorized seller under this Act shall be preserved for at
31 least 5 years or as required to comply with any other Act the
32 administration of which is vested in the Director. The
33 records shall be made available for examination in accordance
34 with Sections 55 and 60 of this Act.

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

2 (205 ILCS 657/75)

3 Sec. 75. Authorized sellers.

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

7 (b) A licensee shall not allow a person to act as its
8 authorized seller until all applicable requirements of this
9 Act have been complied with and all of the following
10 information name--and--address--of--the--person, on a form
11 prescribed by the Director, along with all applicable fees,
12 has have been submitted to the Department by the licensee:-

13 (1) The name of the seller and the address of the
14 principal place of business of the seller and the address
15 of all locations and proposed locations of the seller in
16 this State.

17 (2) The form of business organization of the
18 seller, including:

19 (A) a copy of its articles of incorporation
20 and amendments thereto and a copy of its bylaws,
21 certified by its secretary, if the seller is a
22 corporation;

23 (B) a copy of its partnership agreement,
24 certified by a partner, if the seller is a
25 partnership; or

26 (C) a copy of the documents that control its
27 organizational structure, certified by a managing
28 official, if the seller is organized in some other
29 form.

30 (3) The name, business and home address,
31 fingerprints, and a chronological summary of the business
32 experience, material litigation history, and felony
33 convictions over the preceding 10 years of:

1 (A) the proprietor, if the seller is an
2 individual;

3 (B) every partner, if the seller is a
4 partnership;

5 (C) each officer, director, and controlling
6 person, if the seller is a corporation; and

7 (D) each person in a position to exercise
8 control over, or direction of, the business of the
9 seller, regardless of the form of organization of
10 the applicant.

11 (4) Financial statements, not more than one year
12 old, prepared in accordance with generally accepted
13 accounting principles and audited by a licensed public
14 accountant or certified public accountant showing the
15 financial condition of the seller and an unaudited
16 balance sheet and statement of operation as of the most
17 recent quarterly report, certified by the seller or an
18 officer or partner thereof. If the applicant is a wholly
19 owned subsidiary or is eligible to file consolidated
20 federal income tax returns with its parent, however,
21 unaudited financial statements for the preceding year
22 along with the unaudited financial statements for the
23 most recent quarter may be submitted if accompanied by
24 the audited financial statements of the parent company
25 for the preceding year along with the unaudited financial
26 statement for the most recent quarter.

27 (5) Filings of the seller with the Securities and
28 Exchange Commission or similar foreign governmental
29 entity (English translation), if any.

30 (6) A list of all states and countries in which the
31 seller is operating as a money transmitter, seller, or
32 agent and whether the seller has been withdrawn, refused,
33 canceled, or suspended in any other state, with full
34 details.

1 (7) All additional information the Director
2 considers necessary in order to ensure compliance with
3 this Act. The Director may, for good cause shown, waive,
4 in part, any of the requirements of this Section.

5 (c) A licensee shall enter into a contract with its
6 authorized seller detailing the nature and scope of the
7 relationship between the licensee and the authorized seller.
8 The contract between a licensee and an authorized seller must
9 require the authorized seller to operate in full compliance
10 with the laws of this State and of the United States. The
11 licensee shall provide the Director with the sample written
12 contract.

13 (d) The financial responsibility of a licensee for the
14 actions of its authorized seller shall not exceed the amount
15 of funds received by the authorized seller on behalf of its
16 licensee for transmission.

17 (e) An authorized seller has an affirmative duty not to
18 (1) commit fraud or misrepresentation and (2) submit
19 fraudulent statements to the licensee. A licensee shall, as
20 soon as practical, report to the Director and to any other
21 appropriate official of this State or of the United States
22 when it has probable cause to believe an authorized seller
23 has violated the affirmative duty set forth in this
24 subsection.

25 (f) The licensee shall require the authorized seller to
26 hold in trust for the licensee from the moment of receipt the
27 proceeds of any business transacted under this Act in an
28 amount equal to the amount of proceeds due the licensee less
29 the amount due the authorized seller. The funds shall remain
30 the property of the licensee whether or not commingled by the
31 authorized seller with its own funds. In the event that the
32 license is revoked by the Director, all proceeds then held in
33 trust by authorized sellers of that licensee shall be deemed
34 to have been assigned to the Director. If an authorized

1 seller fails to remit funds to the licensee in accordance
2 with the time specified in its contract with the licensee,
3 the licensee may bring a civil action against the authorized
4 seller for 3 times the actual damages. The Director may
5 provide by rule a maximum remittance time for authorized
6 sellers.

7 (g) A licensee shall, upon discovery, immediately report
8 to the Director, and an authorized seller, shall upon
9 discovery, immediately report to its licensee, the theft or
10 loss of any payment instrument from the licensee or
11 authorized seller in Illinois, having a value in excess of
12 \$100 or an aggregate value of \$1,000 in any 3 month period.

13 (h) Upon suspension or revocation of a license, the
14 failure of a licensee to renew its license, or the denial of
15 the renewal of a license, the licensee shall notify its
16 authorized sellers of the Director's action and require them
17 to immediately cease operation as its authorized sellers.

18 (i) A licensee shall report the removal of an authorized
19 seller location or the termination of operations of an
20 authorized seller location to the Director on a quarterly
21 basis.

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

26 (k) An authorized seller shall pay to the Director an
27 annual registration fee of \$300 for its first location and
28 \$15 for each additional location conducting business as an
29 authorized seller.

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

31 (205 ILCS 657/90)
32 Sec. 90. Enforcement.

33 (a) If it appears to the Director that a person has

1 committed or is about to commit a violation of this Act, a
2 rule promulgated under this Act, or an order of the Director,
3 the Director may apply to the circuit court for an order
4 enjoining the person from violating or continuing to violate
5 this Act, the rule, or order and for injunctive or other
6 relief that the nature of the case may require and may, in
7 addition, request the court to assess a civil penalty up to
8 \$10,000 ~~\$17,000~~ along with costs and attorney fees.

9 (b) If the Director finds, after an investigation that
10 he considers appropriate, that a licensee or other person is
11 engaged in practices contrary to this Act or to the rules
12 promulgated under this Act, the Director may issue an order
13 directing the licensee or person to cease and desist the
14 violation. The Director may, in addition to or without the
15 issuance of a cease and desist order, assess an
16 administrative penalty up to \$10,000 ~~\$17,000~~ against a
17 licensee or authorized seller for each violation of this Act
18 or the rules promulgated under this Act. The issuance of an
19 order under this Section shall not be a prerequisite to the
20 taking of any action by the Director under this or any other
21 Section of this Act. The Director shall serve notice of his
22 action, including a statement of the reasons for his actions,
23 either personally or by certified mail, return receipt
24 requested. Service by mail shall be deemed completed if the
25 notice is deposited in the post office, postage paid,
26 addressed to the last known address for a license.

27 (c) In the case of the issuance of a cease and desist
28 order or assessment order, a hearing may be requested in
29 writing within 30 days after the date of service. The
30 hearing shall be held at the time and place designated by the
31 Director in either the City of Springfield or the City of
32 Chicago. The Director and any administrative law judge
33 designated by him shall have the power to administer oaths
34 and affirmations, subpoena witnesses and compel their

1 attendance, take evidence, authorize the taking of
2 depositions, and require the production of books, papers,
3 correspondence, and other records or information that he
4 considers relevant or material to the inquiry.

5 (d) After the Director's final determination under a
6 hearing under this Section, a party to the proceedings whose
7 interests are affected by the Director's final determination
8 shall be entitled to judicial review of that final
9 determination under the Administrative Review Law.

10 (e) The costs for administrative hearings shall be set
11 by rule.

12 (f) Except as otherwise provided in this Act, a
13 violation of this Act shall subject ~~te~~ the party violating it
14 to a fine of up to \$10,000 ~~\$17,000~~ for each offense.

15 (g) Each transaction in violation of this Act or the
16 rules promulgated under this Act and each day that a
17 violation continues shall be a separate offense.

18 (h) A person who engages in conduct requiring a license
19 under this Act and fails to obtain a license from the
20 Director or knowingly makes a false statement,
21 misrepresentation, or false certification in an application,
22 financial statement, account record, report, or other
23 document filed or required to be maintained or filed under
24 this Act or who knowingly makes a false entry or omits a
25 material entry in a document is guilty of a Class 3 felony.

26 (i) The Director is authorized to compromise, settle,
27 and collect civil penalties and administrative penalties, as
28 set by rule, with any person for violations of this Act or of
29 any rule or order issued or promulgated under this Act. Any
30 person who, without the required license, engages in conduct
31 requiring a license under this Act shall be liable to any
32 party injured by that conduct in an amount equal to the
33 amount of money accepted for transmission plus an amount
34 equal to 3 times the amount accepted for transmission.

1 (j) The Director may enter into consent orders at any
 2 time with a person to resolve a matter arising under this
 3 Act. A consent order must be signed by the person to whom it
 4 is issued and must indicate agreement to the terms contained
 5 in it. A consent order need not constitute an admission by a
 6 person that this Act or a rule or order issued or promulgated
 7 under this Act has been violated, nor need it constitute a
 8 finding by the Director that the person has violated this Act
 9 or a rule or order promulgated under this Act.

10 (k) Notwithstanding the issuance of a consent order, the
 11 Director may seek civil or criminal penalties or compromise
 12 civil penalties concerning matter encompassed by the consent
 13 order unless the consent order by its terms expressly
 14 precludes the Director from doing so.

15 (l) Appeals from all final orders and judgments entered
 16 by the circuit court under this Section in review of a
 17 decision of the Director may be taken as in other civil
 18 actions by any party to the proceeding.

19 (Source: P.A. 88-643, eff. 1-1-95; 89-601, eff. 8-2-96.)

20 (205 ILCS 657/93 new)

21 Sec. 93. Consumer Protection Fund.

22 (a) A licensee under this Act shall pay to the Director
 23 \$0.01 for each money transmission made, to be paid into a
 24 special income-earning fund hereby created in the State
 25 treasury, known as the TOMA Consumer Protection Fund. The
 26 fees shall be remitted to the Director on a quarterly basis
 27 within 30 days after the end of March, June, September, and
 28 December for all money transmissions made during the
 29 preceding quarter.

30 (b) All moneys paid into the fund together with all
 31 accumulated undistributed income thereon shall be held as a
 32 special fund in the State treasury. The fund shall be used
 33 solely for the purpose of providing restitution to consumers

1 who have suffered monetary loss arising out of a transaction
2 regulated by this Act.

3 (c) The fund shall be applied only to restitution when
4 restitution has been ordered by the Director. Restitution
5 shall not exceed the amount actually lost by the consumer,
6 unless the Director determines that the consumer is entitled
7 to the additional treble damages provided in subsection (i)
8 of Section 90 of this Act. The fund shall not be used for
9 the payment of any attorney or other fees.

10 (d) Whenever restitution is paid by the fund, the fund
11 shall first be reimbursed from any bond required by this Act.
12 Thereafter, the fund shall be subrogated to the amount of the
13 restitution, and the Director shall request the Attorney
14 General to engage in all reasonable collection steps to
15 collect restitution from the party responsible for the loss
16 and reimburse the fund.

17 (e) Notwithstanding any other provisions of this
18 Section, the payment of restitution from the fund shall be a
19 matter of grace and not of right, and no consumer shall have
20 any vested rights in the fund as a beneficiary or otherwise.
21 Before seeking restitution from the fund, the consumer or
22 beneficiary seeking payment of restitution shall apply for
23 restitution on a form provided by the Director. The form
24 shall include any information the Director may reasonably
25 require in order to determine that restitution is
26 appropriate.

27 (f) The Director shall from time to time review the
28 status of the fund and based upon that review may, by rule,
29 adjust the amount paid into the fund pursuant to this Section
30 to the extent the Director deems necessary and appropriate
31 for the continued solvency of the fund.

32 Section 95. The State Finance Act is amended by adding
33 Section 5.595 as follows:

1 (30 ILCS 105/5.595 new)

2 Sec. 5.595. The TOMA Consumer Protection Fund.

3 Section 99. Effective date. This Act takes effect on
4 July 1, 2003.