

Chapter 78

(Senate Bill 545)

AN ACT concerning

Money Transmitters – Licensing Requirements and Participation in Nationwide Licensing System

FOR the purpose of authorizing the Commissioner of Financial Regulation to participate in the establishment and implementation of a certain national licensing system for money transmitters; authorizing the Commissioner to adopt certain regulations that waive or modify the requirements of certain provisions of law governing money transmitters under certain circumstances; requiring each licensee or license applicant to obtain a certain unique identifier number on or after a certain date; requiring certain license applicants to apply for an initial license or license renewal through a certain nationwide licensing system on or after a certain date; providing that an applicant for a license shall complete, sign, and submit an application in accordance with the process that the Commissioner requires; providing that the applicant shall provide certain information to the Commissioner and comply with certain conditions and provisions of the application for a license; altering the information and documents that an applicant must provide with a license application; making certain investigation and license fees nonrefundable; altering certain license fees; requiring an applicant for an initial license and for each branch license to pay a certain fee imposed by a certain nationwide licensing system; requiring each person who engages in the business of money transmission to obtain and maintain a license for its principal executive office; altering certain requirements for the provision of fingerprints of applicants and licensees for criminal history records checks; requiring the fingerprints and certain information to be provided to a certain nationwide licensing system; authorizing the Commissioner to use a certain nationwide licensing system as a channeling agent for certain purposes; authorizing the Commissioner to request certain records and documents; providing that certain requirements regarding the privacy or confidentiality of certain information or material provided to a certain nationwide licensing system continue to apply after disclosure of the information or material to the system; authorizing the Commissioner to enter into certain information sharing agreements; providing that certain provisions of this Act supersede certain provisions of law under certain circumstances; altering the contents of a certain notice; altering the term of an initial license and the license renewal period; requiring a licensee to pay a certain fee in connection with an examination of the licensee; requiring the Commissioner to report certain enforcement actions against a money transmitter or its authorized delegate and certain information to a certain nationwide licensing system; requiring the Commissioner to adopt regulations establishing a certain

process; authorizing the Commissioner to submit to a certain nationwide licensing system certain information regarding enforcement actions against certain persons who are not licensees or authorized delegates; making certain conforming changes; defining certain terms; providing for the application of certain provisions of this Act; and generally relating to the regulation of money transmitters.

BY repealing and reenacting, with amendments,

Article – Financial Institutions

Section 2–105.1, 12–401, 12–405, 12–407 through 12–409, 12–410(e), 12–411, 12–415(c), and 12–424

Annotated Code of Maryland

(2011 Replacement Volume and 2011 Supplement)

BY adding to

Article – Financial Institutions

Section 12–408.1 and 12–430.1

Annotated Code of Maryland

(2011 Replacement Volume and 2011 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Financial Institutions

2–105.1.

(a) (1) In this section the following words have the meanings indicated.

(2) “MONEY TRANSMISSION” HAS THE MEANING STATED IN § 12–401 OF THIS ARTICLE.

[(2)] (3) “Mortgage lender” has the meaning stated in § 11–501 of this article.

[(3)] (4) “Mortgage originator” has the meaning stated in § 11–601 of this article.

(b) The Commissioner may adopt and enforce regulations reasonably necessary to carry out the authority and responsibility of the office of Commissioner.

(c) (1) The Commissioner may participate in the establishment and implementation of a multistate automated licensing system for **[mortgage]**:

(i) MORTGAGE lenders [and mortgage];

(II) MORTGAGE originators; AND**(III) PERSONS WHO ENGAGE IN MONEY TRANSMISSION.**

(2) To facilitate implementation of a multistate automated licensing system, the Commissioner may adopt regulations that waive or modify the requirements of:

(I) Title 11, Subtitles 5 and 6 of this article WITH RESPECT TO MORTGAGE LENDERS AND MORTGAGE ORIGINATORS; AND

(II) TITLE 12, SUBTITLE 4 OF THIS ARTICLE WITH RESPECT TO PERSONS WHO ENGAGE IN MONEY TRANSMISSION.

12-401.

(a) In this subtitle the following words have the meanings indicated.

(b) (1) “Accelerated mortgage payment service” means the service of receiving funds from a mortgagor for the purpose of making mortgage payments to a mortgagee on behalf of the mortgagor in order to exceed the regularly scheduled minimum payment obligation under the terms of the mortgage.

(2) “Accelerated mortgage payment service” does not include the collection by a mortgagee of accelerated payments from the mortgagee’s own mortgagors.

(c) (1) “Authorized delegate” means a person who is authorized by a licensee to engage in the business of money transmission under the name of the licensee at any location other than the place of business specified in the license.

(2) “Authorized delegate” does not include a branch ~~office~~ **LOCATION** of a licensee.

(d) (1) “Bill payer service” means the service of receiving funds from an obligor for the purpose of paying the obligor’s bills, invoices, mortgages, or accounts.

(2) “Bill payer service” does not include the service described in paragraph (1) of this subsection that is provided by a nonprofit organization that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code.

(E) (1) “BRANCH LOCATION” MEANS ANY LOCATION OTHER THAN THE PRINCIPAL EXECUTIVE OFFICE OF A LICENSEE OR LICENSE APPLICANT AT WHICH MONEY TRANSMISSION SERVICES ARE, OR WILL BE ON LICENSURE, CONDUCTED IN THE STATE OR WITH A PERSON IN THE STATE.

(2) “BRANCH LOCATION” DOES NOT INCLUDE AN AUTHORIZED DELEGATE.

[(e)] (F) “Control” means:

(1) If the licensee is a corporation:

(i) The direct or indirect ownership of, or the right to control, 25% or more of the voting shares of the licensee; or

(ii) The ability to elect a majority of the directors or otherwise effect a change in policy of the licensee; and

(2) If the licensee is a person other than a corporation, the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the licensee, whether through ownership, by contract, or otherwise.

(G) (1) “CONTROL PERSON” MEANS A PERSON WHO HAS THE POWER, DIRECTLY OR INDIRECTLY, TO DIRECT THE MANAGEMENT OR POLICIES OF A MONEY TRANSMITTER, WHETHER THROUGH OWNERSHIP OF SECURITIES, BY CONTRACT, OR OTHERWISE.

(2) “CONTROL PERSON” INCLUDES A PERSON WHO:

(I) IS A GENERAL PARTNER, AN OFFICER, OR A DIRECTOR OF A MONEY TRANSMITTER, OR A PERSON WHO OCCUPIES A SIMILAR POSITION OR PERFORMS A SIMILAR FUNCTION;

(II) DIRECTLY OR INDIRECTLY HAS THE RIGHT TO VOTE 10% OR MORE OF A CLASS OF VOTING SECURITIES, OR HAS THE POWER TO SELL OR DIRECT THE SALE OF 10% OR MORE OF A CLASS OF VOTING SECURITIES, OF A MONEY TRANSMITTER; OR

(III) IN THE CASE OF A PARTNERSHIP, A LIMITED PARTNERSHIP, A LIMITED LIABILITY PARTNERSHIP, A LIMITED LIABILITY COMPANY, OR ANY OTHER BUSINESS ENTITY:

1. HAS THE RIGHT TO RECEIVE ON LIQUIDATION OR DISSOLUTION OF A MONEY TRANSMITTER 10% OR MORE OF THE CAPITAL OF A MONEY TRANSMITTER; OR

2. HAS CONTRIBUTED 10% OR MORE OF THE CAPITAL OF A MONEY TRANSMITTER.

[(f)] (H) “Deposit in lieu of a surety bond” means an investment in:

(1) Cash;

(2) Unless found by the Commissioner to be unacceptable, a certificate of deposit or other debt obligation, except a capital note, of a State-chartered or federally chartered financial institution, other-state bank, or foreign bank that:

(i) Is located in this State or maintains a branch in this State;
and

(ii) Is authorized to maintain deposit or share accounts;

(3) Unless found by the Commissioner to be unacceptable:

(i) Obligations of or guaranteed by the United States, its departments, agencies, or instrumentalities, or obligations of any state, territory, or municipality or any political subdivision of any state, territory, or municipality;

(ii) Any investment securities, money market mutual funds, interest-bearing bills or notes, debentures, or stock traded on any national securities exchange or on a national over-the-counter market bearing a rating of one of the three highest grades as defined by a nationally recognized organization that rates such securities; and

(iii) Any demand borrowing agreement or agreements in an amount or aggregate amount which does not exceed 10% of the net worth of the company liable for payment under the agreement or agreements as shown on financial statements certified by a certified public accountant acceptable to the Commissioner, provided that the company is a corporation or a subsidiary of a corporation whose capital stock is listed on a national exchange and is not a licensee or authorized delegate of a licensee under this subtitle; or

(4) Any other investment that the Commissioner approves.

[(g)] (I) “Executive officer” means a president, vice president, senior officer responsible for business operations, chief financial officer, or any other individual who performs similar functions.

[(h)] “Key shareholder” means any person, or group of persons acting in concert, that is the owner of 25% or more of any class of voting stock.]

[(i)] (J) “License” means a license issued by the Commissioner under this subtitle to engage in the business of money transmission.

[(j)] (K) “Material litigation” means litigation that according to generally accepted accounting principles:

(1) Is deemed significant to an applicant’s or licensee’s financial health; and

(2) Would be required to be referenced in the applicant’s or licensee’s annual audited financial statements, report to shareholders, or similar document.

[(k)] (L) “Monetary value” means a medium of exchange whether or not redeemable in money.

[(l)] (M) (1) “Money transmission” means the business of selling or issuing payment instruments or stored value devices, or receiving money or monetary value, for transmission to a location within or outside the United States by any means, including electronically or through the Internet.

(2) “Money transmission” includes:

(i) A bill payer service;

(ii) An accelerated mortgage payment service; and

(iii) Any informal money transfer system engaged in as a business for, or network of persons who engage as a business in, facilitating the transfer of money outside the conventional financial institutions system to a location within or outside the United States.

[(m)] (N) “Outstanding payment instrument” means a payment instrument that has been sold or issued in the United States directly by a licensee or an authorized delegate of a licensee that has been reported as not yet paid by or for the licensee.

(O) “NATIONWIDE LICENSING SYSTEM” MEANS A MULTISTATE UNIFORM LICENSING SYSTEM DEVELOPED AND MAINTAINED BY THE CONFERENCE OF STATE BANK SUPERVISORS, OR BY A SUBSIDIARY OR AN AFFILIATE OF THE CONFERENCE OF STATE BANK SUPERVISORS, FOR THE LICENSING OF MONEY SERVICES BUSINESSES, INCLUDING MONEY TRANSMITTERS.

[(n)] (P) (1) “Payment instrument” means any electronic or written check, draft, money order, traveler’s check, or other electronic or written instrument or order for the transmission or payment of money, sold or issued to one or more persons, whether or not the instrument is negotiable.

(2) "Payment instrument" does not include any credit card voucher, letter of credit, or tangible object redeemable by the issuer in goods or services.

[(o)] (Q) "Permissible investment" means:

(1) Cash;

(2) Unless found by the Commissioner to be unacceptable, a certificate of deposit or other debt obligation, except a capital note, of a State-chartered or federally chartered financial institution, other-state bank, or foreign bank that:

(i) Is located in this State or maintains a branch in this State;
and

(ii) Is authorized to maintain deposit or share accounts;

(3) Unless found by the Commissioner to be unacceptable:

(i) Obligations of or guaranteed by the United States, its departments, agencies, or instrumentalities, or obligations of any state, territory, or municipality or any political subdivision of any state, territory, or municipality;

(ii) Any investment securities, money market mutual fund, interest-bearing bills or notes, debentures or stock traded on any national securities exchange or on a national over-the-counter market bearing a rating of one of the three highest grades as defined by a nationally recognized organization that rates such securities; and

(iii) Any demand borrowing agreement or agreements in an amount or aggregate amount which does not exceed 10% of the net worth of the company liable for payment under the agreement or agreements as shown on financial statements certified by a certified public accountant acceptable to the Commissioner, provided that the company is a corporation or a subsidiary of a corporation whose capital stock is listed on a national exchange and is not a licensee or authorized delegate of a licensee under this subtitle;

(4) Receivables that are due to a licensee from its authorized delegates under a contract described in § 12-413 of this subtitle that are not past due or doubtful of collection; or

(5) Any other investment that the Commissioner approves.

[(p)] (R) (1) "Stored value device" means a card or other tangible object used for the transmission or payment of money:

(i) That contains a microprocessor chip, magnetic stripe, or other means for the storage of information;

(ii) That is prefunded; and

(iii) The value of which is reduced after each use.

(2) “Stored value device” does not include any tangible object the value of which is redeemable only in the issuer’s goods or services.

[(q)] (S) “Surety device” means:

(1) A surety bond; or

(2) A deposit in lieu of a surety bond.

(T) “UNIQUE IDENTIFIER” MEANS A NUMBER OR ANOTHER IDENTIFIER ASSIGNED BY THE NATIONWIDE LICENSING SYSTEM.

12–405.

(A) A person may not engage in the business of money transmission if that person, or the person with whom that person engages in the business of money transmission, is located in the State unless that person:

(1) Is licensed by the Commissioner;

(2) Is an authorized delegate of a licensee under whose name the business of money transmission occurs; or

(3) Is a person exempted from licensing under this subtitle.

(B) EACH LICENSEE OR LICENSE APPLICANT SHALL OBTAIN AND MAINTAIN A VALID UNIQUE IDENTIFIER ISSUED BY THE NATIONWIDE LICENSING SYSTEM:

(1) ON FORMING AN ACCOUNT WITH THE NATIONWIDE LICENSING SYSTEM ON OR AFTER NOVEMBER 1, 2012; OR

(2) IF THE COMMISSIONER HAS NOT JOINED THE NATIONWIDE LICENSING SYSTEM AS OF NOVEMBER 1, 2012, ON OR AFTER THE DATE THAT THE COMMISSIONER JOINS, AS SPECIFIED BY THE COMMISSIONER BY PUBLIC NOTICE.

(C) AN APPLICANT FOR AN INITIAL LICENSE OR A LICENSE RENEWAL SHALL APPLY FOR THE LICENSE OR RENEWAL THROUGH THE NATIONWIDE LICENSING SYSTEM:

(1) ON OR AFTER NOVEMBER 1, 2012; OR

(2) IF THE COMMISSIONER HAS NOT JOINED THE NATIONWIDE LICENSING SYSTEM AS OF NOVEMBER 1, 2012, ON OR AFTER THE DATE THAT THE COMMISSIONER JOINS, AS SPECIFIED BY THE COMMISSIONER BY PUBLIC NOTICE.

12-407.

(a) **(1) To apply for a license, an applicant shall [complete]:**

(I) COMPLETE, SIGN, and submit to the Commissioner an application made under oath [on] IN the form, AND IN ACCORDANCE WITH THE PROCESS, that the Commissioner requires; AND

(II) PROVIDE ALL INFORMATION THAT THE COMMISSIONER REQUESTS.

(2) THE APPLICANT SHALL COMPLY WITH ALL CONDITIONS AND PROVISIONS OF THE APPLICATION FOR A LICENSE.

(b) An applicant shall provide:

(1) The trade name of the applicant, as filed with the State Department of Assessments and Taxation under § 1-406 of the Corporations and Associations Article, and any fictitious or other name used by the applicant in the conduct of the applicant's business;

(2) The address [at which the applicant's business is to be conducted and the address of the headquarters of the business] **OF THE PRINCIPAL EXECUTIVE OFFICE OF THE APPLICANT AND EACH BRANCH LOCATION;**

(3) The name, business address, and nature of the business of each authorized delegate to be appointed by the applicant;

(4) The most recent unconsolidated financial statement of the applicant that shall:

(i) Be prepared in accordance with generally accepted accounting principles applied on a consistent basis;

(ii) Be a certified opinion audit prepared by an independent certified public accountant;

(iii) Include a schedule of all permissible investments, if any, of the applicant; and

(iv) Be no older than 12 months before the date of the application;

(5) The name, address, and telephone number of the applicant's resident agent in the State;

(6) A history of material litigation against the applicant, if any, for the past 3 years; and

(7) Any other information that the Commissioner reasonably requires.

[(c) If the applicant is a sole proprietorship, the applicant also shall provide:

(1) The applicant's residence address, telephone number, and electronic mail address; and

(2) The applicant's credit report that is no older than 3 months before the date of the application.

(d) If the applicant is a joint venture or partnership, the applicant also shall provide:

(1) The residence address, telephone number, and electronic mail address of each coventurer or general partner;

(2) An individual credit report for all coventurers or general partners that is no older than 3 months before the date of application; and

(3) A copy of all joint venture or partnership agreements for the applicant.

(e) If the applicant is a corporation or limited liability company, the applicant also shall provide:

(1) The name, business telephone number, electronic mail address, and the residence address and telephone number of the executive officers, directors, and all key shareholders or members;

(2) A business credit report for the applicant that is no older than 3 months before the date of application;

(3) Certified copies of the applicant's articles of incorporation or articles of organization and bylaws or operating agreement with all amendments; and]

(C) AN APPLICANT THAT IS A BUSINESS ENTITY SHALL PROVIDE:

(1) CERTIFIED COPIES OF THE APPLICANT'S CERTIFICATE OF INCORPORATION, ARTICLES OF INCORPORATION, OR ARTICLES OF ORGANIZATION, OR OTHER INSTRUMENT INCORPORATING OR FORMING THE APPLICANT, AS AMENDED, CORRECTED, OR SUPPLEMENTED; AND

(2) THE BYLAWS, OPERATING AGREEMENT, OR OTHER EQUIVALENT INTERNAL GOVERNANCE DOCUMENTS, AS AMENDED OR SUPPLEMENTED.

[(4) (D) [A] AN APPLICANT SHALL PROVIDE A certificate of good standing from the state in which the applicant is incorporated or organized AND A CERTIFICATE OF GOOD STANDING FROM THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION.

[(f) (E) With the application, the applicant shall pay to the Commissioner:

(1) [An] A NONREFUNDABLE investigation fee of \$1,000; and

(2) A NONREFUNDABLE license fee of [either:

(i) \$4,000 if the applicant applies for the license on or after January 1 and on or before December 31 of an even-numbered year; or

(ii) \$2,000 [if the applicant applies for the license on or after January 1 and on or before December 31 of an odd-numbered year].

(F) IN ADDITION TO THE LICENSE FEE REQUIRED UNDER SUBSECTION (E) OF THIS SECTION, AN APPLICANT FOR AN INITIAL LICENSE SHALL PAY TO THE NATIONWIDE LICENSING SYSTEM THE FEE THAT THE NATIONWIDE LICENSING SYSTEM IMPOSES IN CONNECTION WITH PROCESSING THE APPLICATION.

(g) With the application, the applicant shall file evidence of a surety device with the Commissioner as provided in § 12-412 of this subtitle.

(h) (1) IN ADDITION TO ANY LICENSE REQUIRED UNDER §§ 12-405 AND 12-410 OF THIS SUBTITLE, EACH PERSON WHO ENGAGES IN THE BUSINESS

OF MONEY TRANSMISSION SHALL OBTAIN AND MAINTAIN A LICENSE FOR ITS PRINCIPAL EXECUTIVE OFFICE.

(2) For each **BRANCH LOCATION** license for which an applicant applies, the applicant shall:

- (i) Submit a separate application; [and]
- (ii) Pay a separate **NONREFUNDABLE** license fee; **AND**

(III) PAY THE APPLICATION PROCESSING FEE THAT THE NATIONWIDE LICENSING SYSTEM IMPOSES IN CONNECTION WITH PROCESSING THE APPLICATION FOR THE BRANCH LOCATION.

[(2)] (3) If an applicant has or is applying for more than one license, the applicant may comply with subsection (g) of this section by filing evidence of only one surety device.

[(3)] (4) If an applicant has or is applying for more than one license, the applicant is not required to pay a separate investigation fee.

12-408.

(A) IN THIS SECTION, “CENTRAL REPOSITORY” MEANS THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

[(a)] (B) This section does not apply to any corporation the securities of which are exempt from registration under § 11-601(8) or (12) of the Corporations and Associations Article or any wholly owned subsidiary of the corporation.

[(b)] In connection with an initial application, a renewal application, a special investigation, and at any other time the Commissioner requests, an applicant or licensee shall provide fingerprints for use by the Federal Bureau of Investigation and the Maryland Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services to conduct criminal history records checks.

(c) An applicant or licensee required under this section to provide fingerprints shall pay any processing fee required by the Federal Bureau of Investigation or the Maryland Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.]

(C) IN CONNECTION WITH AN INITIAL APPLICATION FOR A LICENSE UNDER § 12-407 OF THIS SUBTITLE, AND AT ANY OTHER TIME THAT THE

COMMISSIONER REQUESTS, AN APPLICANT OR LICENSEE SHALL PROVIDE TO THE NATIONWIDE LICENSING SYSTEM INFORMATION CONCERNING THE APPLICANT'S IDENTITY, INCLUDING:

(1) FINGERPRINTS FOR SUBMISSION TO THE FEDERAL BUREAU OF INVESTIGATION, AND ANY OTHER GOVERNMENTAL AGENCY OR ENTITY, INCLUDING THE CENTRAL REPOSITORY, AUTHORIZED TO RECEIVE THIS INFORMATION FOR A STATE, A NATIONAL, OR AN INTERNATIONAL CRIMINAL HISTORY BACKGROUND CHECK;

(2) IN THE CASE OF A SOLE PROPRIETORSHIP, PERSONAL HISTORY AND EXPERIENCE IN A FORM PRESCRIBED BY THE NATIONWIDE LICENSING SYSTEM, INCLUDING THE SUBMISSION OF AUTHORIZATION FOR THE NATIONWIDE LICENSING SYSTEM AND THE COMMISSIONER TO OBTAIN:

(i) AN INDEPENDENT CREDIT REPORT FROM A CONSUMER REPORTING AGENCY DESCRIBED IN THE FEDERAL FAIR CREDIT REPORTING ACT, 15 U.S.C. § 1681A(P); AND

(ii) INFORMATION RELATED TO ANY ADMINISTRATIVE, CIVIL, OR CRIMINAL FINDINGS BY ANY GOVERNMENTAL JURISDICTION; AND

(3) IN THE CASE OF A CORPORATION OR ANOTHER BUSINESS ENTITY:

(i) BUSINESS HISTORY IN A FORM PRESCRIBED BY THE NATIONWIDE LICENSING SYSTEM, INCLUDING:

1. THE SUBMISSION OF A BUSINESS CREDIT REPORT FOR THE APPLICANT THAT IS NO OLDER THAN 3 MONTHS BEFORE THE DATE OF THE APPLICATION; AND

2. INFORMATION RELATED TO ANY ADMINISTRATIVE, CIVIL, OR CRIMINAL FINDINGS BY ANY GOVERNMENTAL JURISDICTION; AND

(ii) FOR EACH CONTROL PERSON, PERSONAL HISTORY IN A FORM PRESCRIBED BY THE NATIONWIDE LICENSING SYSTEM.

(D) SUBJECT TO § 12-408.1 OF THIS SUBTITLE, TO IMPLEMENT THIS SUBTITLE, THE COMMISSIONER MAY USE THE NATIONWIDE LICENSING SYSTEM AS A CHANNELING AGENT TO REQUEST INFORMATION FROM AND DISTRIBUTE INFORMATION TO THE DEPARTMENT OF JUSTICE, ANY OTHER GOVERNMENTAL AGENCY WITH SUBJECT MATTER JURISDICTION, AND ANY OTHER STATE

LICENSING ENTITY THAT HAS MONEY TRANSMITTERS LICENSED OR REGISTERED WITH THE NATIONWIDE LICENSING SYSTEM.

(E) IN ADDITION TO THE REQUIREMENTS UNDER SUBSECTION (C) OF THIS SECTION, IN CONNECTION WITH AN INITIAL APPLICATION FOR A LICENSE UNDER § 12-407 OF THIS SUBTITLE, AND AT ANY OTHER TIME THAT THE COMMISSIONER REQUESTS, AN APPLICANT OR A LICENSEE SHALL PROVIDE FINGERPRINTS FOR USE BY THE CENTRAL REPOSITORY TO CONDUCT CRIMINAL HISTORY RECORDS CHECKS.

(F) AN APPLICANT OR A LICENSEE WHO IS REQUIRED TO PROVIDE FINGERPRINTS UNDER SUBSECTION (C) OR (E) OF THIS SECTION SHALL PAY THE PROCESSING OR OTHER FEES REQUIRED BY THE CENTRAL REPOSITORY, THE FEDERAL BUREAU OF INVESTIGATION, AND THE NATIONWIDE LICENSING SYSTEM.

(G) THE COMMISSIONER MAY REQUEST FROM THE CENTRAL REPOSITORY, THE FEDERAL BUREAU OF INVESTIGATION, OR THE NATIONWIDE LICENSING SYSTEM, AS APPLICABLE, FOR EACH PERSON WHO IS REQUIRED TO PROVIDE FINGERPRINTS UNDER SUBSECTION (C) OR (E) OF THIS SECTION:

(1) (I) THE STATE, NATIONAL, OR INTERNATIONAL CRIMINAL HISTORY RECORDS OF THE PERSON; AND

(II) A PRINTED STATEMENT LISTING ANY CONVICTION OR OTHER DISPOSITION OF, AND ANY PLEA OF GUILTY OR NOLO CONTENDERE TO, ANY CRIMINAL CHARGE;

(2) (I) AN UPDATE OF THE INITIAL CRIMINAL HISTORY RECORDS CHECK OR CRIMINAL HISTORY BACKGROUND CHECK OF THE PERSON; AND

(II) A REVISED STATEMENT LISTING ANY CONVICTION OR OTHER DISPOSITION OF, AND ANY PLEA OF GUILTY OR NOLO CONTENDERE TO, ANY CRIMINAL CHARGE OCCURRING AFTER THE DATE OF THE INITIAL CRIMINAL HISTORY RECORDS CHECK OR CRIMINAL HISTORY BACKGROUND CHECK; AND

(3) AN ACKNOWLEDGED RECEIPT OF THE APPLICATION FOR A CRIMINAL HISTORY RECORDS CHECK OR CRIMINAL HISTORY BACKGROUND CHECK OF THE PERSON.

[(d)] (H) If the applicant or licensee is a corporation **OR ANOTHER BUSINESS ENTITY**, the fingerprinting and criminal history records check requirements **UNDER SUBSECTION (C) OR (E) OF THIS SECTION** shall apply to **[the president and any other executive officer of] AN EXECUTIVE OFFICER, A GENERAL PARTNER, OR A MANAGING MEMBER OF, OR AN INDIVIDUAL SERVING IN A SIMILAR CAPACITY WITH RESPECT TO**, the corporation **OR OTHER BUSINESS ENTITY**, as requested by the Commissioner.

12-408.1.

(A) (1) THE REQUIREMENTS UNDER ANY FEDERAL LAW AND §§ 10-611 THROUGH 10-628 OF THE STATE GOVERNMENT ARTICLE REGARDING THE PRIVACY OR CONFIDENTIALITY OF INFORMATION OR MATERIAL PROVIDED TO THE NATIONWIDE LICENSING SYSTEM, AND ANY PRIVILEGE ARISING UNDER FEDERAL OR STATE LAW, INCLUDING THE RULES OF ANY FEDERAL OR STATE COURT WITH RESPECT TO THAT INFORMATION OR MATERIAL, SHALL CONTINUE TO APPLY TO THAT INFORMATION OR MATERIAL AFTER THE INFORMATION OR MATERIAL HAS BEEN DISCLOSED TO THE NATIONWIDE LICENSING SYSTEM.

(2) THE INFORMATION AND MATERIAL MAY BE SHARED WITH ALL STATE AND FEDERAL REGULATORY OFFICIALS HAVING OVERSIGHT AUTHORITY OVER THE MONEY TRANSMISSION INDUSTRY, INCLUDING THE FINANCIAL CRIMES ENFORCEMENT NETWORK, WITHOUT THE LOSS OF PRIVILEGE OR THE LOSS OF CONFIDENTIALITY PROTECTIONS PROVIDED BY FEDERAL LAW OR §§ 10-611 THROUGH 10-628 OF THE STATE GOVERNMENT ARTICLE.

(B) THE COMMISSIONER MAY ENTER INTO INFORMATION-SHARING AGREEMENTS WITH OTHER GOVERNMENTAL AGENCIES, THE CONFERENCE OF STATE BANK SUPERVISORS, OR OTHER ASSOCIATIONS REPRESENTING GOVERNMENTAL AGENCIES, INCLUDING THE FINANCIAL CRIMES ENFORCEMENT NETWORK.

(C) INFORMATION OR MATERIAL THAT IS SUBJECT TO A PRIVILEGE OR CONFIDENTIALITY UNDER SUBSECTION (A) OF THIS SECTION MAY NOT BE SUBJECT TO:

(1) DISCLOSURE UNDER ANY FEDERAL OR STATE LAW GOVERNING THE DISCLOSURE TO THE PUBLIC OF INFORMATION HELD BY AN OFFICER OR AGENCY OF THE FEDERAL GOVERNMENT OR A STATE THAT HAS RECEIVED THE INFORMATION OR MATERIAL; OR

(2) SUBPOENA, DISCOVERY, OR ADMISSION INTO EVIDENCE, IN ANY PRIVATE CIVIL ACTION OR ADMINISTRATIVE PROCESS, UNLESS WITH

RESPECT TO ANY PRIVILEGE HELD BY THE NATIONWIDE LICENSING SYSTEM, THE PERSON TO WHOM THE INFORMATION OR MATERIAL PERTAINS WAIVES, IN WHOLE OR IN PART, THAT PRIVILEGE.

(D) ANY PROVISIONS OF §§ 10-611 THROUGH 10-628 OF THE STATE GOVERNMENT ARTICLE RELATING TO THE DISCLOSURE OF ANY INFORMATION OR MATERIAL DESCRIBED IN SUBSECTION (A) OF THIS SECTION THAT ARE INCONSISTENT WITH SUBSECTION (A) OF THIS SECTION SHALL BE SUPERSEDED BY THE REQUIREMENTS OF THIS SECTION.

(E) THIS SECTION DOES NOT APPLY TO INFORMATION OR MATERIAL RELATING TO PUBLICLY ADJUDICATED DISCIPLINARY AND ENFORCEMENT ACTIONS AGAINST A MONEY TRANSMITTER OR ITS AUTHORIZED DELEGATE THAT IS INCLUDED IN THE NATIONWIDE LICENSING SYSTEM AND DESIGNATED FOR ACCESS BY THE PUBLIC.

12-409.

(a) After the filing of a complete application, the Commissioner shall investigate the financial condition and responsibility, financial and business experience, character, and general fitness of the applicant.

(b) (1) Unless the Commissioner notifies the applicant that a different time period is necessary, the Commissioner shall approve or deny each application for a license within 60 days after the date a complete application is filed.

(2) [Subject to the provisions of paragraph (3) of this subsection, the] **THE** applicant may by written request to the Commissioner withdraw the application at any time before the issuance of the license.

[(3) (i) If the application is withdrawn 30 days or less after the date of application, the Commissioner shall refund the investigation fee and license fee.

(ii) If the application is withdrawn more than 30 days after the date of application, the Commissioner shall keep the investigation fee and return the license fee.]

(c) The Commissioner shall issue a license to any applicant who meets the requirements of this subtitle.

(d) (1) If an applicant does not meet the requirements of this subtitle, the Commissioner shall:

(i) Notify the applicant immediately of this fact;

- (ii) Subject to the hearing provisions of § 12–428 of this subtitle, deny the application;
- (iii) Return the surety device filed under § 12–407 of this subtitle; **AND**
- (iv) [Refund the license fee; and
- (v)] Keep the **LICENSE FEE AND THE** investigation fee.

(2) Within 30 days after the Commissioner denies an application, the Commissioner shall state the reasons for the denial in writing and mail them to the address listed in the application.

12–410.

(e) (1) (i) If the licensee has its [headquarters] **PRINCIPAL EXECUTIVE OFFICE** in the State, the licensee shall prominently display the license **AND UNIQUE IDENTIFIER** in the location that is open to the public and at which the licensee engages in the business of money transmission.

(ii) If the licensee has its [headquarters] **PRINCIPAL EXECUTIVE OFFICE** outside the State, the licensee shall maintain the license in the [headquarters] **PRINCIPAL EXECUTIVE OFFICE**.

(2) Each authorized delegate shall display prominently at each location open to the public a notice in at least 48–point type that states the following:

“The Commissioner of Financial Regulation for the State of Maryland will accept all questions or complaints regarding this authorized delegate of (name of licensee, **LICENSE NUMBER, AND UNIQUE IDENTIFIER**) at (address of Commissioner), phone (toll–free phone number of the Commissioner)”.

(3) A licensee that offers Internet money transmission services shall include the following notice on its website:

“The Commissioner of Financial Regulation for the State of Maryland will accept all questions or complaints from Maryland residents regarding (name of licensee, **LICENSE NUMBER, AND UNIQUE IDENTIFIER**) at (address of Commissioner), phone (toll–free phone number of the Commissioner)”.

12–411.

(a) [A license issued under this subtitle expires on December 31 of each odd–numbered year unless it is renewed for a 2–year term as provided in subsection

(b) of this section] **SUBJECT TO ANY REGULATIONS THE COMMISSIONER ADOPTS IN CONNECTION WITH THE TRANSITION TO THE NATIONWIDE LICENSING SYSTEM, AN INITIAL LICENSE TERM SHALL:**

(1) BEGIN ON THE DAY THE LICENSE IS ISSUED; AND

(2) EXPIRE ON DECEMBER 31 OF THE YEAR:

(I) THE LICENSE IS ISSUED, IF THE LICENSE IS ISSUED BEFORE NOVEMBER 1; OR

(II) SUCCEEDING THE YEAR THAT THE LICENSE IS ISSUED, IF THE LICENSE IS ISSUED ON OR AFTER NOVEMBER 1.

(b) On or [before December] **AFTER NOVEMBER 1** of [the] **EACH** year [of expiration], a license may be renewed for a [2-year] **1-YEAR** term, if the licensee:

(1) Otherwise is entitled to be licensed;

(2) Files evidence of a surety device required under § 12-412 of this subtitle;

(3) Pays to the Commissioner a **NONREFUNDABLE** renewal fee of [\$4,000] **\$2,000**; and

(4) Submits to the Commissioner:

(i) A renewal application [on] **IN** the form **AND IN ACCORDANCE WITH THE PROCESS** that the Commissioner requires; [and]

(ii) A financial statement that complies with the requirements of § 12-407(b)(4) of this subtitle; **AND**

(III) ANY OTHER INFORMATION THAT THE COMMISSIONER REASONABLY REQUIRES TO DETERMINE THAT THE RENEWAL APPLICANT CONTINUES TO BE ELIGIBLE TO BE LICENSED.

(C) IN ADDITION TO THE LICENSE RENEWAL FEE REQUIRED UNDER SUBSECTION (B)(3) OF THIS SECTION, AN APPLICANT FOR A LICENSE RENEWAL SHALL PAY TO THE NATIONWIDE LICENSING SYSTEM THE FEE THAT THE NATIONWIDE LICENSING SYSTEM IMPOSES IN CONNECTION WITH THE RENEWAL APPLICATION.

(c) In addition to any sanctions that may be imposed by the Commissioner under this subtitle, a licensee who fails to provide in a timely manner the notice required under subsection (a)(1) or (b)(1) of this section shall:

(1) For each failure, pay to the Commissioner a penalty in the amount of \$500; and

(2) [File with the Commissioner an application] **APPLY** for a new license, together with all appropriate application and investigation fees.

12-424.

(a) The Commissioner may conduct an on-site examination of a licensee or authorized delegate with not less than 7 business days prior notice.

(b) With good cause, the Commissioner may conduct an on-site examination of a licensee or authorized delegate with no prior notice.

(c) The licensee shall pay all reasonably incurred costs of an examination **CONDUCTED UNDER THIS SECTION, INCLUDING A PER-DAY FEE SET BY THE COMMISSIONER FOR EACH OF THE COMMISSIONER'S EMPLOYEES ENGAGED IN THE EXAMINATION.**

(d) The on-site examination may be conducted in conjunction with an examination performed by a representative of a responsible supervisory agency of another state.

(e) (1) The Commissioner, in lieu of an on-site examination, may accept the examination report of a responsible supervisory agency of another state, or a report prepared by an independent accounting firm.

(2) A report accepted under paragraph (1) of this subsection is considered for all purposes as an official report of the Commissioner.

(f) The Commissioner may:

(1) Examine all books, accounts, and records the Commissioner determines are necessary to conduct a complete examination; and

(2) Examine under oath any officer, director, or employee of the licensee, or any other individual who may provide information on behalf of the licensee.

12-430.1.

(A) (1) NOTWITHSTANDING §§ 10-611 THROUGH 10-628 OF THE STATE GOVERNMENT ARTICLE, AND SUBJECT TO § 12-408.1 OF THIS SUBTITLE, THE COMMISSIONER SHALL REPORT ADJUDICATED ENFORCEMENT ACTIONS AGAINST A MONEY TRANSMITTER OR ITS AUTHORIZED DELEGATE AND OTHER RELEVANT INFORMATION TO THE NATIONWIDE LICENSING SYSTEM.

(2) THE COMMISSIONER SHALL ADOPT REGULATIONS ESTABLISHING A PROCESS BY WHICH A LICENSEE OR AN APPLICANT FOR A LICENSE MAY CHALLENGE INFORMATION ENTERED BY THE COMMISSIONER INTO THE NATIONWIDE LICENSING SYSTEM.

(B) THE COMMISSIONER MAY SUBMIT TO THE NATIONWIDE LICENSING SYSTEM INFORMATION REGARDING ENFORCEMENT ACTIONS AGAINST PERSONS ENGAGED IN THE MONEY TRANSMISSION BUSINESS WHO ARE NOT LICENSEES OR AUTHORIZED DELEGATES.

SECTION 2. AND BE IT FURTHER ENACTED, That the changes made to the licensing requirements for persons engaged in money transmission under §§ 12-405, 12-407, 12-408, and 12-411 of the Financial Institutions Article, as enacted by Section 1 of this Act, shall be construed to apply only prospectively and may not be interpreted to affect the validity or term of any license issued or renewed before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012.

Approved by the Governor, April 10, 2012.