

HOUSE BILL 2841

By Sargent

AN ACT to amend Tennessee Code Annotated, Section 45-17-104; Section 45-17-107; Section 45-17-108; Section 45-17-110; Section 45-17-111 and Section 45-17-119, relative to deferred presentment services.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 45-17-104(a)(2)(B), is amended by deleting the language "five percent (5%)" and by substituting instead the language "ten percent (10%)".

SECTION 2. Tennessee Code Annotated, Section 45-17-107(c), is amended by deleting the language "fiscal year ending September 30" and by substituting instead the language "year ending December 31".

SECTION 3. Tennessee Code Annotated, Section 45-17-108(c), is amended by deleting the language "business location or name" and by substituting instead the language "principal place of business, branch office or name".

SECTION 4. Tennessee Code Annotated, Section 45-17-110, is amended by deleting the section in its entirety and by substituting instead the following:

(a) Licenses issued pursuant to this chapter shall expire on December 31.

Each license may be renewed for the ensuing twelve-month period upon application by the license holder showing continued compliance with the requirements of § 45-17-104 and the payment to the commissioner annually, between November 1 and December 31 of each year, a license renewal fee of five hundred dollars (\$500).

(b) Licenses issued or renewed under the former provisions of this chapter with an expiration date of September 30, 2012, shall expire on December 31, 2012.

SECTION 5. Tennessee Code Annotated, Section 45-17-111(a), is amended by deleting the language "each license holder" and by substituting instead the language "the principal place of business of each license holder".

SECTION 6. Tennessee Code Annotated, Section 45-17-119(a), is amended by deleting the language "by September 1" and by substituting instead the language "between November 1 and December 31".

SECTION 7. Tennessee Code Annotated, Section 45-17-104, is amended by adding the following language as new, appropriately designated subsections:

(c)

(1) In addition to any other duties imposed upon the commissioner by law, the commissioner is authorized to require persons subject to this chapter to be licensed through a multi-state automated licensing system. Pursuant to this authority, the commissioner may:

(A) Promulgate rules and regulations that are reasonably necessary for participation in, transition to or operation of a multi-state automated licensing system;

(B) Establish relationships or enter into agreements that are reasonably necessary for participation in, transition to or operation of a multi-state automated licensing system. The agreements may include, but are not limited to, operating agreements, information sharing agreements, interstate cooperative agreements, and technology licensing agreements;

(C) Require that applications for licensing under this chapter and renewals of such licenses be filed with a multi-state automated licensing system;

(D) Require that any fees required to be paid under this chapter be paid through a multi-state automated licensing system;

(E) Establish for licensees deadlines for transitioning to a multi-state automated licensing system. The commissioner has the authority to deny any applications or renewal applications not filed with a multi-state automated licensing system after the deadlines established pursuant to this subsection (c), notwithstanding any dates established elsewhere in this chapter; provided, however, that the commissioner shall provide reasonable notice of the deadlines pertaining to transitioning; and

(F) Take such further actions as are reasonably necessary to give effect to this section.

(2) Nothing in this section shall authorize the commissioner to require a person who is not subject to this chapter to submit information to or to participate in a multi-state automated licensing system.

(3) Notwithstanding any other provision of this section, the commissioner retains full authority and discretion to license persons under this chapter and to enforce this chapter to its fullest extent. Nothing in this section shall be deemed to be a reduction or derogation of that authority and discretion.

(4) Applicants for and holders of licenses issued under this chapter shall pay all costs associated with submitting an application to or transitioning a license to a multi-state automated licensing system, as well as all costs required by a multistate automated licensing system for maintaining and renewing any license issued by the commissioner on a multi-state automated licensing system.

(d) The commissioner is authorized to use a multi-state automated licensing system as an agent for channeling information, whether criminal or noncriminal in

nature, whether derived from or distributed to the United States department of justice or any other state or federal governmental agency, or any other source, that the commissioner is authorized to request or distribute under this chapter.

(e) In order to promote more effective regulation and reduce regulatory burden through supervisory information sharing:

(1) The requirements under any federal or state law regarding the privacy or confidentiality of any information or material provided to a multi-state automated licensing system, and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to such information or material, shall continue to apply to the information or material after the information or material has been disclosed to a multi-state automated licensing system. The information or material may be shared with all state and federal regulatory officials with deferred presentment services oversight authority without the loss of privilege or the loss of confidentiality protections provided by federal or state law, including the protection available under § 45-1-120;

(2) For purposes of subdivision (e)(1), the commissioner is authorized to enter into agreements or sharing agreements with other governmental agencies, the Conference of State Bank Supervisors or other associations representing governmental agencies as established by rule, regulation or order of the commissioner;

(3) Information or material that is subject to a privilege or confidential under subdivision (e)(1) shall not be subject to:

(A) Disclosure under any federal or state law governing the disclosure to the public of information held by an officer or any agency of the federal government or the respective state; or

(B) Subpoena or discovery or admission into evidence in any private civil action or administrative process, unless with respect to any privilege held by a multi-state automated licensing system applicable to such information or material, the person to whom such information or material pertains waives that privilege, in whole or in part, in the discretion of such person;

(4) This subsection (e) shall supersede any inconsistent provisions of title 10, chapter 7, part 5 pertaining to the records open to public inspection; and

(5) This subsection (e) shall not apply with respect to information or material relating to publicly adjudicated disciplinary and enforcement actions against persons subject to this chapter that is included in a multi-state automated licensing system for access by the public.

SECTION 8. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared severable.

SECTION 9. This act shall take effect upon becoming a law, the public welfare requiring it.