

MINUTES OF THE Senate Committee on Financial Institutions and Insurance.

The meeting was called to order by Chairperson Dick Bond at 9:08 a.m. on February 15, 1995 in Room 529-S of the Capitol.

Members present were: Senator Clark, Senator Corbin, Senator Hensley, Senator Lee, Senator Petty, Senator Praeger, Senator Steffes

Committee staff present: Dr. William Wolff, Legislative Research Department
Fred Carman, Revisor of Statutes
June Kossover, Committee Secretary

Conferees appearing before the committee: Judi Stork, Office of the Bank Commissioner
Kathy Taylor, Kansas Bankers Association

Others attending: See attached list

Senator Corbin made a motion to approve the minutes of the meeting of February 14 as submitted; Senator Clark seconded the motion. The motion carried.

The chairman opened the hearing on **HB 2069**. Judi Stork, Office of the Bank Commissioner, appeared as a proponent of this legislation. Ms. Stork testified that this bill would amend five different statutes under the banking code and explained each amendment. (Attachment #1-1)

Kathy Taylor, Kansas Bankers Association, also appeared as a proponent of this bill and requested a further amendment to the banking code (KSA 9-1102). (Attachment #2) The amendment would create a separate authorization for banks to enter municipal lease-purchase agreements.

In response to Senator Steffes' question, Ms. Stork replied that with the current language, there are no loan limits.

Mr. Carman asked for definition of "municipal." William Grant, State Banking Department, explained for Mr. Carman and the committee that "municipal" was intended to include both municipal and quasi-municipal corporations.

Senator Steffes stated that having banks involved in leasing is a good idea but he sees potential problems with no loan limits and feels this issue should be addressed in the legislation. Chairman Bond suggested amending the bill and then tabling it until the conferees and staff have had time to clarify the language. Senator Steffes moved to amend the bill as requested by Ms. Taylor and to include both municipal and quasi-municipal corporations as requested by Mr. Grant. Senator Praeger seconded the motion. The motion carried.

Senator Steffes made a motion to amend the bill to set lending limits on real estate lease activities. Senator Praeger seconded the motion. The motion carried. **HB 2069** will be brought back to committee when exact limits and language have been agreed upon.

The hearing was opened on **HB 2071**, which would amend the definition section of the laws regulating money transmitters in Kansas. Judi Stork, State Bank Commissioner's Office, also testified in favor of this bill. (Attachment 1-3) In response to Senator Bond's question of why this bill was necessary, Ms. Stork replied that there is already a statutory requirement that money transmitters be registered with the Secretary of State's office, that whether or not this bill passes, the requirement would still exist.

Ezra Levine, on behalf of the Ad Hoc Industry Group of Money Transmitters of Washington, D.C., submitted written testimony in opposition to this legislation. (Attachment #3) There being no further questions and no other conferees, the hearing was closed.

Senator Petty made a motion to pass **HB 2071** and to place it on the Consent Calendar. Senator Praeger seconded the motion. The motion carried.

CONTINUATION SHEET

MINUTES OF THE Senate Committee on Financial Institutions & Insurance, Room 529-S Statehouse, on February 15, 1995.

The hearing was opened on HB 2070, which would allow the bank commissioner to provide unclaimed property violation information to the state treasurer. Ms. Stork of the Banking Department, also testified as a proponent of this legislation. (Attachment #1-2) The bill would also delete language referring to the Kansas Savings and Loan Department, which has been abolished.

Senator Praeger made a motion to pass HB 2070 favorably and to place it on the Consent Calendar. Senator Clark seconded the motion. The motion carried.

The committee adjourned at 9:48 a.m. The next meeting is scheduled for February 20, 1995.

STATE OF KANSAS
BILL GRAVES
GOVERNOR



Frank D. Dunnick
Bank Commissioner

Judi M. Stork
Deputy Commissioner

Kevin C. Glendening
Assistant Deputy Commissioner

William D. Grant, Jr.
General Counsel

Ruth E. Glover
Administrative Officer

OFFICE OF THE
STATE BANK COMMISSIONER

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

FEBRUARY 15, 1995

Mr. Chairman and Members of the Committee:

My name is Judi Stork, Deputy Commissioner with the Office of the State Bank Commissioner. I am here today on behalf of Commissioner Frank Dunnick to testify in favor of House Bill 2069, House Bill 2070, and House Bill 2071.

House Bill 2069 amends five different statutes under the Banking Code. The first two statutes, K.S.A. 9-1114 and K.S.A. 1994 Supp. 9-1115, are being amended in an identical fashion. The first statute pertains to directors of a bank or trust company whereas the second statute relates to officers of these same institutions. Currently, the language states that if a director or officer becomes indebted to a bank on a charged off indebtedness or judgement, such person must forfeit their position as a director or officer. We have had several instances where a director and/or officer have had debt at a bank that is charged off, and the bank will inquire as to whether forgiveness of such debt will correct the violation and therefore the bank can keep that employee in their position as an officer and/or director. Our response has always been the intent and purpose of the statute is to ensure that directors and officers are held to a high standard when it relates to their financial dealings. We do not envision that a mere forgiveness of such charged off obligation follows the original intent of the statute. This position has been a long standing interpretation of our office and we are asking for this amendment for clarification purposes.

K.S.A. 9-1118 requires that a director of each bank take an oath to diligently perform their duties, It also requires that each director swear they own \$500 par value of stock in that bank or in the parent corporation of the bank. K.S.A. 9-1117 establishes the requirement that directors must own \$500 par value of stock. During the 1993 legislative session, K.S.A. 9-1117 was changed to allow directors to own their qualifying shares of stock in the bank, in the parent corporation, or in a parent corporation that controls, directly or indirectly, such bank. Since K.S.A. 9-1117 was amended in this fashion in the 1993 session, a corresponding amendment to K.S.A. 9-1118 was overlooked and is now being introduced as a clean-up measure.

Senate 7141
2/15/95
Attachment #1

K.S.A. 9-1717 is being amended to add trust companies to the current prohibition against an individual, who has been convicted of a felon or any crime involving dishonesty or a breach of trust, from serving as an officer, employee or director. When the separate trust company law under article 20 of Chapter 17 was repealed in 1989, all references to trust companies were added to the banking code in Chapter 9. Generally, if there was a reference to bank, the term "or trust company" was added to that section of Chapter 9 to make the provisions apply to both banks and trust companies. It is unknown why 9-1717 was not changed at that time.

K.S.A. 1994 Supp. 9-1804 requires a bank or trust company to submit an application, to the banking board, prior to the relocation of their place of business. Historically, the banking board has requested that such notice of the application be filed, by the applicant, in the bank's local newspaper, allowing the citizens of the area to comment. The amendment to 9-1804 simply adds this historical practice to the statute. The application for relocation is currently the only application with the board which does not have a statutory publication requirement.

House Bill 2070 amends K.S.A. 9-1303 which governs the sharing of examination information with other federal and state agencies. The amendment found on page two, beginning on line nine, allows the Commissioner to share with the State Treasurer apparent violations of the uniform unclaimed property act, K.S.A. 58-3934 through 58-3978. As part of our routine bank examinations, our examining staff reviews a bank's compliance with the unclaimed property act. If violations are noted, they are brought to the attention of the bank and correction is requested. If correction has not been made by the time the examiners leave the bank, correction is again requested when the finalized examination report is transmitted to the bank.

During the last legislative session when the unclaimed property act was totally revised, the State Treasurer requested the authority from the legislature to examine financial institutions for compliance with this act. The bankers argued they were already examined in this area by the Bank Commissioner's staff and did not think the duplication of record review was warranted. As a compromise in this area, the language found on the attachment under Section 30, subsection (b) was added. This states that the Treasurer will not examine the bank for compliance if the financial institution submits a letter from their CPA or resolution from their board certifying compliance with the act. However, it also adds the provision that if a supervising agency notifies the Treasurer of noncompliance, the Treasurer can then examine the bank. K.S.A. 9-1712 prohibits our office from disclosing information gathered during an examination, unless it is authorized under K.S.A. 9-1303. As the language of K.S.A. 9-1303 does not specifically authorize our agency to share information with the Treasurer, notification would never occur, thereby rendering the intent of the last portion of Section 30, subsection (b) of the unclaimed property act worthless. We are asking for the authority to share information with the Treasurer as it specifically relates to apparent violations of the unclaimed property act found in state chartered banks and trust companies.

Senate Committee on Financial Institutions and Insurance
February 15, 1995
Page Three

House Bill 2071, amends K.S.A. 9-508 which is the definition section of the laws regulating money transmitters in Kansas. This amendment requires that any "person" who is selling money orders in this state must be authorized, by the Secretary of State's office, to do business in this state. Our office licenses and regulates this business in Kansas but currently there is no express requirement for such "person" to be registered with the Secretary of State's office.

not prevent the money or property from being presumed abandoned or affect any duty to file a report or to pay or deliver abandoned property to the administrator as required by this act.

(b) No action or proceeding may be commenced by the administrator against a holder concerning any provision of this act more than 10 years after the holder either specifically reported the property, or gave notice of a dispute regarding the property, to the administrator.

Sec. 30. (a) The administrator may require any person who has not filed a report to file a verified report stating whether or not the person is holding any unclaimed property reportable or deliverable under this act.

→ (b) The administrator, at reasonable times and upon reasonable notice, may examine the records of any person to determine whether the person has complied with the provisions of this act. The provisions of this section shall not apply to any supervised commercial bank, trust company, savings and loan association, savings bank, credit union, or insurance company which provides a letter from an independent certified public accountant or a resolution of its board of directors certifying compliance with this act, unless there is notification of noncompliance by a supervising agency of such commercial bank, trust company, savings and loan association, savings bank, credit union, or insurance company.

(c) If a person is treated under section 12 and amendments thereto as the holder of the property only insofar as the interest of the business association in the property is concerned, the administrator, pursuant to subsection (b), may examine the records of the person if the administrator has given the notice required by subsection (b) to both the person and the business association at least 90 days before the examination.

(d) If an examination of the records of a person results in the disclosure of property reportable and deliverable under this act, the administrator may assess the cost of the examination against the holder based upon the actual hourly salary rate for each examiner involved in the examination inclusive of travel to and from the place of the examination along with necessary and actual expenses for travel and subsistence as allowed under K.S.A. 75-3201 *et seq.* and amendments thereto, along with any consulting, data processing or other related expenses necessary to perform the examination. In no case may the examination charges exceed the value of the property found to be reportable and deliverable. The cost of examination made pursuant to subsection (c) may be imposed only against the business association.

(e) If a holder fails after the effective date of this act to maintain the records required by section 31 and amendments thereto and the records of the holder available for the periods subject to this act are insufficient to permit the preparation of a report, the administrator may require the holder to report and pay such amounts as may reasonably be estimated from any available records.

Sec. 31. (a) Every holder required to file a report under section 17 and amendments thereto, as to any property for which the holder has obtained the last known address of the owner, shall maintain a record of the name and last known address of the owner for 10 years after the property becomes reportable, except to the extent that a shorter time is provided in subsection (b) or by rules and regulations of the administrator.

(b) Any business association that sells in this state travelers checks or money orders, other than third-party bank checks on which the business association is directly liable, or that provides such instruments to others for sale in this state shall maintain a record of those instruments while they remain outstanding, indicating the state and date of issue for three years after the date the property is reportable.

Sec. 32. (a) The administrator, for and on behalf of this state, may commence an action in a district court of Kansas:

(1) For an adjudication that certain property is unclaimed and payable or distributable to the administrator;

(2) to compel presentation of a report or payment or distribution of property to the administrator;

(3) to enforce the duty of a person to permit the examination or audit of the records of that person;

(4) to enjoin any act that violates the public policy or provisions of this act; or

(5) to enforce any aspect of this act in any manner.

(b) The administrator may commence such an action in the following situations:

(1) The holder is a person domiciled in this state or is a governmental entity of this state;

(2) the holder is a person engaged in or transacting any business in this state, although not domiciled in this state; or

(3) the subject matter is tangible personal property held in this state.

(c) In a situation where no district court in this state can obtain jurisdiction over the person involved, the administrator may commence such an action in a federal court or state court of another state having jurisdiction over that person.

(d) The administrator shall be deemed an indispensable party to any judicial or administrative proceedings concerning the disposition

1-4

1-4



The KANSAS BANKERS ASSOCIATION
A Full Service Banking Association

February 15, 1995

To: Senate Financial Institution and Insurance Committee

From: Kathy Taylor, Kansas Bankers Association

Re: Proposed Amendments to HB 2069

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before the Committee in support of **HB 2069** and to request that the bill be amended.

Attached to this testimony is a proposed amendment to another section of the banking code, KSA 9-1102. This statute is where a state-chartered bank looks for its authority to acquire and hold interests in real estate and certain personal property.

The amendment we are suggesting would create a new subsection (c) for 9-1102. We believe this subsection is necessary to clearly give state-chartered Kansas banks the authority to enter into lease-purchase agreements with municipalities. Banks are currently entering into such agreements with their municipalities, under the assumption that such agreements are authorized generally by subsection (a)(2) of 9-1102.

However, these agreements are a bit unique in nature, as there are specific statutes that authorize the municipalities and school districts to enter into these agreements. These statutes set forth certain requirements that must be met by these units of local government before entering into a lease and provisions that must be contained within the terms of the lease.

For these reasons, we believe, and the State Banking Department agrees, that a separate authorization is needed for the municipal lease-purchase agreement.

I have also attached a Memorandum in support of this proposed amendment from Mr. Evan Howe, Vice-President of the Kansas State Bank, Manhattan, Kansas. Mr. Howe is very knowledgeable about municipal lease-purchase agreements and makes a very good point about keeping parity between national-chartered and state-chartered banks.

Again thank you for the opportunity to propose this amendment and I urge you to act favorably on **HB 2069 as amended**.

Office of Executive Vice President • 1500 Merchants National Building
Eighth and Jackson • Topeka, Kansas 66612 • (913) 232-3444
FAX (913) 232-3484

Senate 7/41 2/15/95
Attachment # 2



personal property; limitations. (a) Any bank or trust company may own, purchase, lease, hold, or convey real property and certain property subject to the following:

(1) Own suitable building, furniture and fixtures, stock in a single trust company organized under the laws of the state of Kansas, and stock in a safe deposit company organized under the laws of the state of Kansas, and stock in a corporation organized under the laws of this state owning real estate all or a part of which is occupied or to be occupied by the bank or trust company;

(2) purchase, hold, encumber and convey real estate or lease, as lessor or lessee, any building or buildings. Any real estate not necessary for the bank's or trust company's accommodation in the transaction of its business shall be disposed of or charged off its books by the bank or trust company not later than seven years after its acquisition unless the state bank commissioner authorizes the bank or trust company to retain such real estate on its books for a period not to exceed an additional two years;

(3) a bank's or trust company's total investment or ownership at all times in any one or more of the following shall not exceed $\frac{1}{2}$ of its unimpaired capital stock, surplus, undivided profits and capital notes and debentures, and any such excess shall be removed from the bank's or trust company's books unless approval is granted by the state bank commissioner:

(A) The book value of real estate plus all encumbrances thereon;

(B) the book value of furniture and fixtures;

(C) the book value of stock in a safe deposit company;

(D) the book value of stock in a trust company; or

(E) the book value of stock in a corporation organized under the laws of this state owning real estate occupied by the bank or trust company and advances to such corporation acquired or made after July 1, 1973. Except that any real estate not necessary for the accommodation of the bank's or trust company's business shall be disposed of or charged off its books according to paragraph (2).

(b) Any bank or trust company may acquire real estate in satisfaction of any debts due it and may purchase real estate in satisfaction of any debts due it, and may purchase real estate at judicial sales, but no bank or trust company shall bid at any judicial sale a larger amount than is necessary to protect its debts and costs. No real estate or interest in oil and gas leasehold acquired in the satisfaction of debts or upon judicial sales shall be carried as a book asset of the bank or trust company for more than 10 years. At the termination of the 10 years such real estate shall be charged off. The commissioner may grant an extension not to exceed four years, if in the commissioner's judgment it will be to the advantage of the bank or trust company to carry the real estate as an asset for such extended period. Any such extensions issued shall be reviewed by the commissioner on an annual basis.

History: L. 1947, ch. 102, § 31; L. 1971, ch. 32, § 2; L. 1973, ch. 45, § 2; L. 1975, ch. 44, § 13; L. 1977, ch. 46, § 1; L. 1986, ch. 56, § 1; L. 1987, ch. 54, § 6; L. 1988, ch. 61, § 2; L. 1989, ch. 48, § 25; L. 1990, ch. 56, § 1; L. 1994, ch. 78, § 1; April 7.

(c) Notwithstanding the limitations set forth in subsections (a) and (b) above, any bank or trust company may be the lessor or may take an assignment from the lessor or may participate with the lessor on a municipal lease-purchase agreement for real property and also may be the lessee on a ground lease or base lease that is executed in conjunction with a municipal lease-purchase agreement so long as the municipal lease-purchase agreement and the ground lease or the base lease are for terms not to exceed 15 years and are executed in accordance with the laws of the State of Kansas.

 **KANSAS STATE BANK**

***** MEMORANDUM *****

Date : February 14, 1995
To : Senate Financial Institutions and Insurance Committee
From : H. Evan Howe
Vice President
Kansas State Bank of Manhattan

Subject : Proposed changes to K.S.A. 9-1102(a)(2)

I am drafting this memorandum in support of the proposed changes to K.S.A. 9-1102(a)(2). As you are aware, the proposed changes address the issue of state chartered banks and trusts companys powers regarding municipal lease purchase agreements.

Please recall that municipal lease purchase agreements are obligations of cities, counties, school districts, fire districts, etc. for the purchase of equipment or real property. Equipment includes fire trucks, school busses, computers, police cars, etc. Real property includes new gymnasiums for school districts, new classroom additions, fire stations, etc.

Although called a lease purchase agreement, it is set up like an installment sale contract. The municipality makes the lease payments to the Lessor and at the end of the lease the municipality owns the equipment free and clear of any security interest. They are also referred to as "Finance Leases" because the lessor merely provides the financing for the equipment or the facility.

From the perspective of Kansas State Bank, we are supporting these changes because they will codify what is already being done in Kansas and clear up any confusion that still remains on this issue.

Under current law in Kansas, Municipalities in Kansas can enter into lease purchase agreements as the lessee for real or personal property. K.S.A. 10-1116(b) states that municipalities in Kansas can enter into a lease purchase agreement as a lessee so long as the agreement specifically states that the municipality is obligated to make payments from funds that are appropriated and budgeted during the current fiscal year of the lessee.

Furthermore, K.S.A. 72-8225 states that school districts in Kansas can enter into lease purchase agreements for real or personal property subject to certain limitations that are clearly set forth in that statute. Many school districts in Kansas have entered into lease purchase agreements pursuant to this statute.

A large number of state chartered Kansas Banks have already entered into many lease purchase agreements with municipalities all across the state as the lessor. By enacting this change to K.S.A. 9-1102(a)(2) you will be specifically authorizing these banks to do what is already being done.

The legislature has already empowered municipalities to enter into lease purchase agreements as the lessee. For each one of these lease purchase agreements there has to be a lessor. The most logical lessor for lease purchase agreement is the local bank.

I also want the Committee to be aware that I also work with many nationally chartered banks and that this is something that they have been doing for years. Clearing this issue up for the state chartered banks will help put them on the same level as the nationally chartered banks.

I would be glad to answer any questions that any of the Committee members may have. Please feel free to call me at Kansas State Bank in Manhattan - (913) 587-4000.

February 15, 1995

STATEMENT OF EZRA C. LEVINE
ON BEHALF OF
AD HOC INDUSTRY GROUP OF MONEY TRANSMITTERS
IN OPPOSITION TO H.B. 2071

These comments in opposition to H.B. 2071 are submitted on behalf of the Ad Hoc Industry Group of Money Transmitters ("Ad Hoc Group"), which is composed of the major national money transmitters--Travelers Express Company Inc.; Western Union Financial Services, Inc.; Comdata Network, Inc.; Thomas Cook Inc.; Citicorp Services, Inc.; Integrated Payment Systems Inc.; and Interpayment Services Ltd. Over the past several years, the Ad Hoc Group has worked actively with state legislators to enact uniform laws for the non-bank money transmission industry.

The Ad Hoc Group opposes H.B. 2071 because it imposes an unduly burdensome and unnecessary requirement that money transmitters must be "authorized to do business" in Kansas in order to be licensed under the Kansas money transmission statute. Moreover, H.B. 2071, if enacted, would make Kansas one of the very few states, of the forty six which regulate money transmitters, to have such a requirement.

The requirement in H.B. 2071 that a company be "authorized to do business in" Kansas to be a licensed money transmitter is unnecessary because safety and soundness safeguards exist under current law. For example, the current law requires licensees to post bonds and allows the Banking Commissioner to investigate the financial safety and soundness of licensees. Moreover, whatever residual concerns that the state may have about its licensees can easily be

Senate 7/d-1
2/15/95
Attachment # 3

satisfied under current law by an administrative requirement--as many states have--that "out of state" applicants provide a certificate of good standing from their state of incorporation. In short, there is no nexus between safety and soundness whether or not an out of state corporation-licensee is "authorized to do business" in Kansas.

In recent years, the Ad Hoc Group, working in concert with the association of state banking regulators for money transmitters--the Money Transmitter Regulators Association ("MTRA")--has been the leader in the effort to promote the enactment of uniform state laws governing the money transmitter industry. That effort has led to the development of a Model Act, a copy of which is attached for the Committee's review.

The Model Act does not contain a provision requiring licensees to qualify to do business in order to obtain a license. The Model Act was drafted based on principles and considerations evaluated by the MTRA, which reviewed existing state laws and culled from those laws the regulatory principles most efficient for protecting the public interest, promoting compliance, facilitating administration and minimizing burdens on the regulated industry. In that review, the state regulators of the MTRA rejected inclusion of an "authorized to do business" requirement because it was believed to be unnecessary to the safety and soundness goals of money transmission statutes.

In addition, a universal "authorized to do business" in Kansas requirement is unnecessary because most interstate businesses under the Kansas money transmission statute have no presence in Kansas. That is, those licensees sell instruments such as money orders or travelers checks and/or transmit funds through networks of independent agents in Kansas. Therefore, while a licensing program is needed to insure the safety and soundness of licensee

activities as conducted through these agents for the benefit of Kansas' citizens, the licensee itself may not in all cases, as a matter of law, be doing business in the state. In short, the proposed statutory requirement would impose another artificial and costly filing requirement where none exists in the ordinary course of business and for no apparent reason.

Therefore, for the reasons set forth above, the Ad Hoc Group opposes H.B. 2071 as unnecessarily costly to the regulated industry and of no possible benefit to the state. In sum, the public interest would not be served by passage of H.B. 2071.

**MODEL ACT REGULATING
MONEY TRANSMITTERS**

SECTION 1 - CITATION

This act may be cited as the "Uniform Money Transmitters Act."

SECTION 2 - LICENSE REQUIRED

A. On or after _____, 1995, no person except those exempt pursuant to Section 4, shall engage in the business of money transmission without a license as provided hereunder.

B. A licensee may conduct its business in this State at one or more locations, directly or indirectly owned, or through one or more authorized delegates, or both, pursuant to the single license granted to the licensee.

SECTION 3 - DEFINITIONS

Unless otherwise indicated, the following definitions shall apply to the terms set forth below wherever such terms are used in this Article:

A. "Money transmission" means the sale or issuance of payment instruments or engaging in the business of receiving money for transmission or transmitting money within the United States or to locations abroad by any and all means, including but not limited to payment instrument, wire, facsimile or electronic transfer.

B. "Licensee" means a person licensed under this Article.

C. "Person" means any individual, partnership, association, joint-stock association, trust or corporation.

D. "Applicant" means a person filing an application for a license under this Article.

E. "Authorized delegate" means an entity designated by the licensee under the provisions of this Article to sell or issue payment instruments or engage in the business of transmitting money on behalf of a licensee.

F. "Control" means ownership of, or the power to vote, twenty-five percent or more of the outstanding voting securities of a licensee or controlling person. For purposes of determining the percentage of a licensee controlled by any person, there shall be aggregated with the person's interest the interest of any other person controlled by such person or by any spouse, parent, or child of such person.

G. "Controlling person" means any person in control of a licensee.

H. "Executive Officer," means the licensee's president, chairman of the executive committee, senior officer responsible for the licensee's business, chief financial officer and any other person who performs similar functions.

I. "Key shareholder" means any person (or group of persons acting in concert) who is the owner of twenty five (25) percent or more of any voting class of an applicant's stock.

J. "Material litigation" means any litigation that, according to generally accepted accounting principles, is deemed significant to an applicant's or licensee's financial health and would be required to be referenced in that entity's annual audited financial statements, report to shareholders or similar documents.

K. "Payment instrument" means any check, draft, money order, travelers check or other instrument or written order for the transmission or payment of money, sold or issued to one or more persons, whether or not such instrument is negotiable. The term "payment instrument" does not include any credit card voucher, any letter of credit or any instrument which is redeemable by the issuer in goods or services.

L. "Outstanding payment instrument" means any payment instrument issued by the licensee which has been sold in the United States directly by the

licensee or any payment instrument issued by the licensee which has been sold by an authorized delegate of the licensee in the United States, and which has not yet been paid by or for the licensee.

M. "Remit" means either to make direct payment of the funds to the licensee or its representatives authorized to receive those funds, or to deposit the funds in a bank, credit union or savings and loan association or other similar financial institution in an account specified by the licensee.

N. "Superintendent" means the State Superintendent of Banks or other Senior State regulator charged with regulation of banks.

O. "Permissible Investments" means:

- (1) cash;
- (2) certificates of deposit or other debt obligations of a financial institution, either domestic or foreign;
- (3) bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers' acceptances, which are eligible for purchase by member banks of the Federal Reserve system;
- (4) any investment bearing a rating of one of the three highest grades as defined by a nationally recognized organization that rates such securities;
- (5) investment securities that are obligations of the United States, its agencies or instrumentalities, or obligations that are guaranteed fully as to principal and interest of the United States, or any obligations of any state, municipality or any political subdivision thereof;
- (6) shares in a money market mutual fund, interest-bearing bills or notes or bonds, debentures or stock traded on any national securities exchange or on a national over-the-counter market, or mutual funds primarily composed of such securities or a fund composed of one or more permissible investments as set forth herein;

- (7) any demand borrowing agreement or agreements made to a corporation or a subsidiary of a corporation whose capital stock is listed on a national exchange;
- (8) receivables which are due to a licensee from its authorized delegates pursuant to a contract described in Section 18, which are not past due or doubtful of collection; or
- (9) any other investments or security device approved by the Superintendent.

SECTION 4 - EXEMPTIONS

A. This Article shall not apply to:

- (1) The United States or any department, agency, or instrumentality thereof;
- (2) The United States Post Office;
- (3) The State or any political subdivisions thereof; and
- (4) Banks, bank holding companies, credit unions, building and loan associations, savings and loan associations, savings banks or mutual banks organized under the laws of any state or the United States, provided that they do not issue or sell payment instruments through authorized delegates who are not banks, bank holding companies, credit unions, building and loan associations, savings and loan associations, savings banks or mutual banks.

B. Authorized delegates of a licensee, acting within the scope of authority conferred by a written contract as described in Section 18 shall not be required to obtain a license pursuant to this Article.

SECTION 5 - LICENSE QUALIFICATIONS

A. Each licensee under this Article shall at all times have a net worth of not less than one hundred thousand dollars (\$100,000), calculated in accordance with generally accepted accounting principles. Licensees engaging in money transmission at more than one location or through authorized delegates shall have

an additional net worth of \$50,000 per location or agent located in the State, as applicable, to a maximum of \$500,000.

B. Every corporate applicant, at the time of filing of an application for a license under this Article and at all times after a license is issued, shall be in good standing in the state of its incorporation. All non-corporate applicants shall, at the time of the filing of an application for a license under this Article and at all times after a license is issued, be registered or qualified to do business in the State.

SECTION 6 - PERMISSIBLE INVESTMENTS

Each licensee under this Article must at all times possess permissible investments having an aggregate market value, calculated in accordance with generally accepted accounting principles, of not less than the aggregate face amount of all outstanding payment instruments issued or sold by the licensee in the United States. This requirement may be waived by the Superintendent if the dollar volume of a licensee's outstanding payment instruments does not exceed the bond or other security devices posted by the licensee pursuant to Section 8.

SECTION 7 - LICENSE APPLICATION

Each application for a license under this Article shall be made in writing, under oath, and in a form prescribed by the Superintendent. Each application shall contain:

A. For all applicants:

- (1) The exact name of the applicant, the applicant's principal address, any fictitious or trade name used by the applicant in the conduct of its business and the location of the applicant's business records.
- (2) The history of the applicant's material litigation and criminal convictions for the five (5) year period prior to the date of the application.
- (3) A description of the activities conducted by the applicant and a history of operations.

- (4) A description of the business activities in which the applicant seeks to be engaged in the State.
 - (5) A list identifying the applicant's proposed authorized delegates in the state, if any, at the time of the filing of the license application.
 - (6) A sample authorized delegate contract, if applicable.
 - (7) A sample form of payment instrument, if applicable.
 - (8) The location(s) at which the applicant and its authorized delegates, if any, propose to conduct the licensed activities in the State.
 - (9) The name and address of the clearing bank or banks on which the applicant's payment instruments will be drawn or through which such payment instruments will be payable.
- B. If the applicant is a corporation, the applicant must also provide:
- (1) The date of the applicant's incorporation and state of incorporation.
 - (2) A certificate of good standing from the state in which the applicant was incorporated.
 - (3) A description of the corporate structure of the applicant, including the identity of any parent or subsidiary of the applicant, and the disclosure of whether any parent or subsidiary is publicly traded on any stock exchange.
 - (4) The name, business and residence address, and employment history for the past five (5) years of the applicant's executive officers and the officer(s) or managers who will be in charge of the applicant's activities to be licensed hereunder.
 - (5) The name, business and residence address, and employment history for the period five (5) years prior to the date of the application of any key shareholder of the applicant.
 - (6) The history of material litigation and criminal convictions for the five (5) year period prior to the date of the application of every executive officer or key shareholder of the applicant.

- (7) A copy of the applicant's most recent audited financial statement (including balance sheet, statement of income or loss, statement of changes in shareholder equity and statement of changes in financial position) and, if available, the applicant's audited financial statements for the immediately preceding two (2) year period. However, if the applicant is a wholly owned subsidiary of another corporation, the applicant may submit either the parent corporation's consolidated audited financial statements for the current year and for the immediately preceding two (2) year period or the parent corporation's Form 10K reports filed with the United States Securities and Exchange Commission for the prior three (3) years in lieu of the applicant's financial statements. If the Applicant is a wholly owned subsidiary of a corporation having its principal place of business outside the United States, similar documentation filed with the parent corporation's non-United States regulator may be submitted to satisfy this provision.
 - (8) Copies of all filings, if any, made by the applicant with the United States Securities and Exchange Commission, or with a similar regulator in a country other than the United States, within the year preceding the date of filing of the application.
- C. If the applicant is not a corporation, the applicant must also provide:
- (1) The name, business and residence address, personal financial statement and employment history, for the past five (5) years, of each principal of the applicant and the name, business and residence address, and employment history for the past five (5) years of any other person or persons who will be in charge of the applicant's activities to be licensed hereunder.
 - (2) The place and date of the applicant's registration or qualification to do business in this State;
 - (3) The history of material litigation and criminal convictions for the five (5) year period prior to the date of the application for each individual having any ownership interest in the applicant and each individual who exercises supervisory responsibility with respect to the applicant's activities; and

- (4) Copies of the applicant's audited financial statements (including balance sheet, statement of income or loss, and statement of changes in financial position) for the current year and, if available, for the immediately preceding two (2) year period.

The Superintendent is authorized, for good cause shown, to waive any requirement of this section with respect to any license application or to permit a license applicant to submit substituted information in its license application in lieu of the information required by this section.

SECTION 8 - BOND OR OTHER SECURITY DEVICE

A. Each application must be accompanied by a surety bond, irrevocable letter of credit or such other similar security device (hereinafter "security device") acceptable to the Superintendent in the amount of fifty thousand dollars (\$50,000). If the applicant proposes to engage in business under this Article at more than one location, through authorized delegates or otherwise, then the amount of the security device will be increased by ten thousand dollars (\$10,000) per location, up to a maximum of two hundred fifty thousand dollars (\$250,000). The security device shall be in a form satisfactory to the Superintendent and shall run to the State for the benefit of any claimants against the licensee to secure the faithful performance of the obligations of the licensee with respect to the receipt, handling, transmission, and payment of money in connection with the sale and issuance of payment instruments and/or transmission of money. In the case of a bond, the aggregate liability of the surety in no event shall exceed the principal sum of the bond. Claimants against the licensee or its authorized delegates may themselves bring suit directly on the security device or the Superintendent may bring suit on behalf of such claimants, either in one action or in successive actions.

B. In lieu of such security device or of any portion of the principal thereof, as required by this section, the licensee may deposit with the Superintendent, or

with such banks in this State as the licensee may designate and the Superintendent may approve, cash, interest-bearing stocks and bonds, notes, debentures or other obligations of the United States or any agency or instrumentality thereof, or guaranteed by the United States, or of this State, or of a city, county, town, village, school district or instrumentality of this State, or guaranteed by this State, to an aggregate amount, based upon principal amount or market value, whichever is lower, of not less than the amount of the security device or portion thereof. The securities and/or cash shall be deposited as aforesaid and held to secure the same obligations as would the security device, but the depositor shall be entitled to receive all interest and dividends thereon, shall have the right, with the approval of the Superintendent, to substitute other securities for those deposited, and shall be required so to do on written order of the Superintendent made for good cause shown.

C. The security device shall remain in effect until cancellation, which may occur only after thirty days' written notice to the Superintendent. Cancellation shall not affect any liability incurred or accrued during said period.

D. The security device shall remain in place for no longer than five years after the licensee ceases money transmission operations in the State. However, notwithstanding this provision, the Superintendent may permit the security device to be reduced or eliminated prior to that time to the extent that the amount of the licensee's payment instruments outstanding in this State are reduced. The Superintendent may also permit a licensee to substitute a letter of credit or such other form of security device acceptable to the Superintendent for the security device in place at the time the licensee ceases money transmission operations in the State.

SECTION 9 - APPLICATION FEE

Each application must be accompanied by a non-refundable application fee in the amount of \$_____. The application fee shall also constitute the license fee for the applicant's first year of activities if the license is granted.

SECTION 10 - ISSUANCE OF LICENSE

A. Upon the filing of a complete application, the Superintendent shall investigate the financial condition and responsibility, financial and business experience, character and general fitness of the applicant. The Superintendent may conduct an on-site investigation of the applicant, the reasonable cost of which shall be borne by the applicant. If the Superintendent finds that the applicant's business will be conducted honestly, fairly and in a manner commanding the confidence and trust of the community and that the applicant has fulfilled the requirements imposed by this Article and has paid the required license fee, the Superintendent shall issue a license to the applicant authorizing the applicant to engage in the licensed activities in this State for a term of one year. If these requirements have not been met, the Commissioner shall deny the application in a writing setting forth the reasons for the denial.

B. The Superintendent shall approve or deny every application for an original license within one hundred twenty (120) days from the date a complete application is submitted, which period may be extended by the written consent of the applicant. The Superintendent shall notify the applicant of the date when the application is deemed complete. In the absence of approval or denial of the application, or consent to the extension of the one hundred eighty day period, the application is deemed approved and the Superintendent shall issue the license effective as of the first day after the one hundred eighty day or extended period has elapsed.

C. Any applicant aggrieved by a denial issued by the Superintendent under this Section may at any time within thirty (30) days from the date of receipt of written notice of the denial contest the denial by serving a response on the Superintendent. The serving of a response on the Superintendent shall automatically stay the denial until a final ruling in such hearing is announced. The Superintendent shall set a date for a hearing not later than sixty (60) days after service of the response, unless a later date is set with the consent of the denied applicant.

SECTION 11 - RENEWAL OF LICENSE AND ANNUAL REPORT

A. The Superintendent shall, by rule, establish an annual fee for renewal of a license under this Chapter.

B. The renewal fee shall be accompanied by a report, in a form prescribed by rule by the Superintendent, which form shall be sent by the Superintendent to each licensee no later than three months immediately preceding the date established by the Superintendent, by rule, for license renewal. The licensee must include in its annual renewal report:

- (1) a copy of its most recent audited consolidated annual financial statement (including balance sheet, statement of income or loss, statement of changes in shareholder's equity and statement of changes in financial position), or, in the case of a licensee that is a wholly owned subsidiary of another corporation, the consolidated audited annual financial statement of the parent corporation may be filed in lieu of the licensee's audited annual financial statement;
- (2) for the most recent quarter for which data is available prior to the date of the filing of the renewal application, but in no event more than 120 days prior to the renewal date, the licensee must provide the number of payment instruments sold by the licensee in the State, the dollar amount of those instruments and the dollar amount of those instruments currently outstanding;

- (3) any material changes to any of the information submitted by the licensee on its original application which have not previously been reported to the Superintendent on any other report required to be filed under this Article.
- (4) a list of the licensee's permissible investments;
- (5) a list of the locations within this State at which business regulated by this Act is being conducted by either the licensee or its authorized delegate.

C. A licensee that has not filed a renewal report or paid its renewal fee by the renewal filing deadline and has not been granted an extension of time to do so by the Superintendent shall be notified by the Superintendent, in writing, that a hearing will be scheduled at which time the licensee will be required to show cause why its license should not be suspended pending compliance with these requirements.

SECTION 12 - EXTRAORDINARY REPORTING REQUIREMENTS

A. Within fifteen (15) days of the occurrence of any one of the events listed below, a licensee shall file a written report with the Superintendent describing such event and its expected impact on the licensee's activities in the State:

- (1) The filing for bankruptcy or reorganization by the licensee;
- (2) The institution of revocation or suspension proceedings against the licensee by any state or governmental authority with regard to the licensees' money transmission activities;
- (3) Any felony indictment of the licensee or any of its key officers or directors related to money transmission activities;
- (4) Any felony conviction of the licensee or any of its key officers or directors related to money transmission activities.

SECTION 13 - CHANGES IN CONTROL OF A LICENSEE

Within 15 days of a change or acquisition of control of a licensee, the licensee shall provide notice of such event to the Superintendent in writing and in such form as the Superintendent may prescribe by rule, and shall be accompanied by such information, data and records as the Superintendent may require by rule.

Notwithstanding the foregoing, the Superintendent may waive this notification requirement if, in the Superintendent's discretion, the change in control does not pose any risk to the interests of the public.

SECTION 14 - EXAMINATIONS

A. The Superintendent may conduct an annual on-site examination of a licensee upon forty-five days (45) written notice to the licensee. Should the Superintendent conclude that an on-site examination of a licensee is necessary, the licensee shall pay all reasonably incurred costs of such examination. If the Superintendent determines, based on the licensee's financial statements and past history of operations in the State, that an on-site examination is unnecessary, the on-site examination may be waived by the Superintendent. The on-site examination may be conducted in conjunction with examinations to be performed by representatives of agencies of another state or states. The Superintendent, in lieu of an on-site examination, may accept the examination report of an agency of another state, or a report prepared by an independent accounting firm, and reports so accepted are considered for all purposes as an official report of the Superintendent.

B. The Superintendent may request financial data from a licensee in addition to that required under Section 11, or conduct an on-site examination of any authorized delegate or location of a licensee within this State without prior notice to the authorized delegate or licensee only if the Superintendent has a reasonable basis to believe that the licensee or authorized delegate is in noncompliance with this

Article. When the Superintendent examines an authorized delegate's operations, the authorized delegate shall pay all reasonably incurred costs of such examination. When the Superintendent examines a licensee's location within the State, the licensee shall pay all reasonably incurred costs of such examination.

SECTION 15 - MAINTENANCE OF RECORDS

A. Each licensee, shall make, keep and preserve the following books, accounts and other records for a period of three (3) years:

- (1) a record or records of each payment instrument sold;
- (2) a general ledger containing all assets, liability, capital, income and expense accounts (which general ledger shall be posted at least monthly);
- (3) Settlement sheets received from authorized delegates;
- (4) bank statements and bank reconciliation records;
- (5) records of outstanding payment instruments;
- (6) records of each payment instrument paid within the three (3) year period;
- (7) a list of the names and addresses of all of the licensee's authorized delegates.

B. Maintenance of such documents as are required by this section in a photographic, electronic or other similar form shall constitute compliance with this section.

C. Records may be maintained at a location other than within this State so long as they are made accessible to the Superintendent on seven (7) days written notice.

SECTION 16 - CONFIDENTIALITY OF DATA SUBMITTED TO THE SUPERINTENDENT

A. Notwithstanding any other provision of law, all information or reports obtained by the Department from an applicant, licensee or authorized delegate,

whether obtained through reports, applications, examination, audits, investigation, or otherwise, including, but not limited to: (a) all information contained in or related to examination, investigation, operating, or condition reports prepared by, on behalf of, or for the use of the Department; or (b) financial statements, balance sheets, or authorized delegate information, are confidential and may not be disclosed or distributed outside the Department by the Superintendent or any officer or employee of the Department. The Superintendent, however, may provide for the release of information to representatives of state or federal agencies who state in writing under oath that they shall maintain the confidentiality of such information if: (a) the licensee provides consent prior to the release; or (b) the Superintendent finds that the release is reasonably necessary for the protection of the public and in the interests of justice, and the licensee has been given prior notice by the Superintendent of its intent to release such information.

B. Nothing in this Section shall prohibit the Superintendent from releasing to the public a list of persons licensed under this Article or to release aggregated financial data on such licensees.

SECTION 17 - SUSPENSION OR REVOCATION OF LICENSES

After notice and hearing, the Superintendent may suspend or revoke a licensee's license if the Superintendent finds that:

A. Any fact or condition exists that, if it had existed at the time when the licensee applied for its license, would have been grounds for denying such application;

B. The licensee's net worth becomes inadequate and the licensee, after ten (10) days written notice from the Superintendent, fails to take such steps as the Superintendent deems necessary to remedy such deficiency;

C. The licensee knowingly violates any material provision of this Article or any rule or order validly promulgated by the Superintendent under authority of this title;

D. The licensee is conducting its business in an unsafe or unsound manner;

E. The licensee is insolvent;

F. The licensee has suspended payment of its obligations, has made an assignment for the benefit of its creditors, or has admitted in writing its inability to pay its debts as they become due;

G. The licensee has applied for an adjudication of bankruptcy, reorganization, arrangement, or other relief under any bankruptcy.

H. The licensee refuses to permit the Superintendent to make any examination authorized by this Article; or

I. The licensee willfully fails to make any report required by this Article.

SECTION 18 - AUTHORIZED DELEGATE CONTRACTS

Licensees desiring to conduct licensed activities through authorized delegates shall authorize each delegate to operate pursuant to an express written contract, which for contracts entered into after the effective date of this act, shall provide the following:

A. That the licensee appoints the person as its delegate with authority to engage in money transmission on behalf of the licensee;

B. That neither a licensee nor an authorized delegate may authorize sub-delegates without the written consent of the Superintendent;

C. That licensees are subject to supervision and regulation by the Superintendent.

SECTION 19 - AUTHORIZED DELEGATE CONDUCT

A. An authorized delegate shall not make any fraudulent or false statement or misrepresentation to a licensee or to the Superintendent.

B. All money transmission or sale or issuance of payment instrument activities conducted by authorized delegates shall be strictly in accordance with the licensee's written procedures provided to the authorized delegate.

C. An authorized delegate shall remit all money owing to the licensee in accordance with the terms of the contract between the licensee and the authorized delegate. The failure of an authorized delegate to remit all money owing to a licensee within the time presented shall result in liability of the authorized delegate to the licensee for three times the licensee's actual damages. The Commissioner shall have the discretion to set, by regulation, the maximum remittance time.

D. An authorized delegate is deemed to consent to the Superintendent's inspection, with or without prior notice to the licensee or authorized delegate(s), of the books and records of authorized delegates(s) of the licensee when the Superintendent has a reasonable basis to believe that the licensee or authorized delegate is in noncompliance with this Article; and

E. An authorized delegate is under a duty to act only as authorized under the contract with the licensee and that an authorized delegate who exceeds its authority is subject to cancellation of its contract and further disciplinary action by the Superintendent.

F. All funds (less fees) received by an authorized delegate of a licensee from the sale or delivery of a payment instrument issued by a licensee or received by an authorized delegate for transmission shall, from the time such funds are received by such authorized delegate until such time when the funds or an equivalent amount are remitted by the authorized delegate to the licensee, constitute trust funds owned by and belonging to the licensee. If an authorized

delegate commingles any such funds with any other funds or property owned or controlled by the authorized delegate, all commingled proceeds and other property shall be impressed with a trust in favor of the licensee in an amount equal to the amount of the proceeds due the licensee.

G. An authorized delegate shall report to the licensee the theft or loss of payment instruments within 24 hours from the time it knew or should have known of such theft or loss.

SECTION 20 - REVOCATION OR SUSPENSION OF AUTHORIZED DELEGATES

A. If, after notice and a hearing, the Superintendent finds that any authorized delegate of a licensee or any director, officer, employee, or controlling person of such authorized delegate: (1) has violated any provision of this Article or of any rule or regulation or order issued under this Article; (2) has engaged in participated in any unsafe or unsound act with respect to the business of selling or issuing payment instruments of the licensee or the business of money transmission; or (3) has made or caused to be made in any application or report filed with the Superintendent or in any proceeding before the Superintendent, any statement which was at the time and in the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which is required to be stated therein, the Superintendent may issue an order suspending or barring such authorized delegate from continuing to be or becoming an authorized delegate of any licensee during the period for which such order is in effect. Upon issuance of such order, the licensee shall terminate its relationship with such authorized delegate according to the terms of the order.

B. (1) Any authorized delegate to whom an order is issued under this Section may apply to the Superintendent to modify or rescind such order. The

Superintendent shall not grant such application unless the Superintendent finds that it is in the public interest to do so and that it is reasonable to believe that such person will, if and when such person is permitted to resume being an authorized delegate of a licensee, comply with all applicable provisions of this Article and of any regulation and order issued under this Article.

(2) The right of any authorized delegate to whom an order is issued under this Section to petition for judicial review of such order shall not be affected by the failure of such person to apply to the Superintendent to modify or rescind the order.

SECTION 21 - LICENSEE LIABILITY

A licensee's responsibility to any person for a money transmission conducted on that person's behalf by the licensee or the licensee's authorized delegate shall be limited to the amount of money transmitted or the face amount of the payment instrument purchased.

SECTION 22 - HEARINGS - PROCEDURES

The provisions of the uniform Administrative Procedures Act shall apply to any hearing afforded pursuant to this Article.

SECTION 23 - CIVIL PENALTIES

A. If, after notice and hearing, the Superintendent finds that a person has intentionally violated this Act or a rule adopted under this Act, the Superintendent may order the person to pay to the Superintendent a civil penalty in an amount specified by the Superintendent, not to exceed One Thousand Dollars (\$1,000) for each violation or, in the case of a continuing violation, One Thousand Dollars (\$1,000) for each day that the violation continues. No such proceeding shall be initiated and no penalty shall be assessed pursuant to this Section until after such person has been notified in writing of the nature of the violation and has been

afforded a reasonable period of time, as set forth in the notice, to correct the violation and has failed to do so. The provisions of the Uniform Administrative Procedures Act shall apply to such hearing.

B. The Superintendent, in the exercise of his reasonable judgment, is authorized to compromise, settle, and collect civil penalties with any person for violations of any provision of this Article, or of any rule, regulation or order issued or promulgated pursuant to this Article.

SECTION 24 - ENFORCEMENT

A. If it appears to the Superintendent that any person has committed or is about to commit a violation of any provision of this Article or of any rule or order of the Superintendent, the Superintendent may apply to the _____ court for an order enjoining such person from violating or continuing to violate this Article or any rule, regulation or order and for injunctive or such other relief as the nature of the case may require.

B. The Superintendent may enter into consent orders at any time with any person to resolve any matter arising under this Article. A consent order must be signed by the person to whom it is issued or a duly authorized representative, and must indicate agreement to the terms contained therein. A consent order need not constitute an admission by any person that any provision of this Article, or any rule, regulation or order promulgated or issued thereunder has been violated, nor need it constitute a finding by the Superintendent that such person has violated any provision of this Article or any rule, regulation or order promulgated or issued thereunder.

C. Notwithstanding the issuance of a consent order, the Superintendent may seek civil or criminal penalties or compromise civil penalties concerning matters encompassed by the consent order, unless the consent order by its terms expressly precludes the Superintendent from so doing.

SECTION 25 - CRIMINAL PENALTIES

A. Any person who knowingly and willfully violates any provision of this Article for which a penalty is not specifically provided is guilty of a misdemeanor.

B. Any person who knowingly and willfully makes a material, false statement in any document filed or required to be filed under this Article with the intent to deceive the recipient of the document is guilty of a felony.

C. Any person who knowingly and willfully engages in the business of money transmission without a license as provided herein shall be guilty of a felony.

SECTION 26 - PROMULGATION OF RULES

All rules and regulations promulgated by the Superintendent pursuant to authority conferred by this Article will be in accordance with the Uniform Administrative Procedures Act. In addition thereto, at the time the Superintendent files a notice of proposed adoption, amendment or repeal of a rule for public comment, a copy of said notice will be sent by regular U.S. mail, postage prepaid, to all then current licensees and applicants for licenses under this Article.

SECTION 27 - SEVERABILITY

Should any provision, sentence, clause, section or part of this Article for any reason be held unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or part of this Article. It is hereby declared to be the intention of this Legislature that this Article would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 28 - APPOINTMENT OF SUPERINTENDENT AS AGENT FOR SERVICE OF PROCESS

A. Any licensee, authorized delegate or other person who knowingly engages in business activities that are regulated under this Article, with or without filing an application, is deemed to have done both of the following:

- (1) Consented to the jurisdiction of the courts of this State for all actions arising under this Article; and
- (2) Appointed the Superintendent as his lawful agent for the purpose of accepting service of process in any action, suit or proceeding that may arise under this Article.

B. Within three business days after service of process upon the Superintendent, the Superintendent shall transmit by certified mail copies of all lawful process accepted by the Superintendent as an agent to that person at its last known address. Service of process shall be considered complete three (3) business days after the Superintendent deposits copies of the documents in the United States mail.

SECTION 29 - MULTIPLE LICENSES

Any person licensed under this Article shall not be required also to obtain a separate license to engage in either the cashing of checks or the exchange of foreign currency in the State.

SECTION 30 - EFFECTIVE DATE

This article shall be effective on _____.

Every person engaged in activities within this State encompassed by this Article at the time of the Article's adoption, except those persons already licensed under _____ in this State, shall file an application in accordance with the provisions of this Article within three months after the date this Article becomes effective. Those persons already licensed under _____ in this State must file an application for a renewal license pursuant to this Article

within three months after the date this Article becomes effective. No person shall be deemed to be in violation of this Article for operating without a license if it files an application within such three month period, unless and until such application is denied.