



## 93RD GENERAL ASSEMBLY

### State of Illinois

#### 2003 and 2004

Introduced 02/05/04, by Susana Mendoza

#### SYNOPSIS AS INTRODUCED:

205 ILCS 657/5  
205 ILCS 657/10  
205 ILCS 657/15  
205 ILCS 657/20  
205 ILCS 657/25  
205 ILCS 657/30  
205 ILCS 657/37  
205 ILCS 657/40  
205 ILCS 657/45  
205 ILCS 657/50  
205 ILCS 657/55  
205 ILCS 657/60  
205 ILCS 657/65  
205 ILCS 657/75  
205 ILCS 657/80  
205 ILCS 657/85  
205 ILCS 657/95

Amends the Transmitters of Money Act. Defines "agent". Changes the term "authorized seller" to "agent" throughout the Act. Links an applicant's license requirements with the applicant's criminal history, if any, ins pertaining to applicants. Provides that the Director of Financial Institutions may issue an order revoking or suspending any authorization if, after a hearing, the Director finds that the agent has violated any rule adopted by the Director under this Act or any fact or condition exists which would be grounds for denying an application for authorizing an agent. Increases certain fees. Makes other changes. Effective immediately.

LRB093 21020 SAS 47033 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning financial regulation.

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

4 Section 5. The Transmitters of Money Act is amended by  
5 changing Sections 5, 10, 15, 20, 25, 30, 37, 40, 45, 50, 55,  
6 60, 65, 75, 80, 85, and 95 as follows:

7

8 (205 ILCS 657/5)

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

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

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

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

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

30 "Director" means the Director of Financial Institutions.

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

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

1 regulated by this Act occurs.

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

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

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

15 (1) Sells or issues payment instruments.

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

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

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

29 "Payment instrument" means a check, draft, money order,  
30 traveler's check, stored value card, or other instrument or  
31 memorandum, written order or written receipt for the  
32 transmission or payment of money sold or issued to one or more  
33 persons whether or not that instrument or order is negotiable.  
34 Payment instrument does not include an instrument that is  
35 redeemable by the issuer in merchandise or service, a credit  
36 card voucher, or a letter of credit. A written order for the

1 transmission or payment of money that results in the issuance  
2 of a check, draft, money order, traveler's check, or other  
3 instrument or memorandum is not a payment instrument.

4 "Person" means an individual, partnership, association,  
5 joint stock association, corporation, or any other form of  
6 business organization.

7 "Stored value card" means any magnetic stripe card or other  
8 electronic payment instrument given in exchange for money and  
9 other similar consideration, including but not limited to  
10 checks, debit payments, money orders, drafts, credit payments,  
11 and traveler's checks, where the card or other electronic  
12 payment instrument represents a dollar value that the consumer  
13 can either use or give to another individual.

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

19 (Source: P.A. 92-400, eff. 1-1-02; 93-535, eff. 1-1-04.)

20 (205 ILCS 657/10)

21 Sec. 10. License required. No person may engage in this  
22 State in the business of selling or issuing payment  
23 instruments, transmitting money, or exchanging, for  
24 compensation, payment instruments or money of the United States  
25 government or a foreign government to or from money of another  
26 government without first obtaining a license under this Act.  
27 ~~Separate licenses shall not be required, however, for persons~~  
28 ~~acting as authorized sellers of licensees under this Act.~~

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

30 (205 ILCS 657/15)

31 Sec. 15. Exemptions. The following are exempt from the  
32 licensing requirements of this Act:

33 (1) The United States and any department or agency of the  
34 United States.

1 (2) This State and any political subdivision of this State.

2 (3) Banks, trust companies, building and loan  
3 associations, savings and loan associations, savings banks, or  
4 credit unions, licensed or organized under the laws of any  
5 state or of the United States and any foreign bank maintaining  
6 a branch or agency licensed or organized under the laws of any  
7 state or of the United States.

8 (4) Currency exchanges licensed under the Currency  
9 Exchange Act are exempt from licensing only for the issuance of  
10 money orders.

11 (5) Corporations and associations exempt under item (3) or  
12 (4) from the licensing requirements of this Act are not exempt  
13 from approval by the Director as agents ~~authorized sellers~~.  
14 Nothing in this Act shall be deemed to enlarge the powers of  
15 those corporations and associations.

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

17 (205 ILCS 657/20)

18 Sec. 20. Qualifications for a license.

19 (a) In order to obtain a license under this Act, an  
20 applicant must prove to the satisfaction of the Director all of  
21 the following:

22 (1) That the applicant has and maintains the net worth  
23 specified in Column A, computed according to generally  
24 accepted accounting principles, corresponding to the  
25 number of locations in this State at which the applicant is  
26 conducting business or proposes to conduct business by  
27 itself and by any agents ~~authorized sellers~~ specified in  
28 Column B:

Column A	Column B
\$35,000	1
50,000	2-3
100,000	4-5
150,000	6-9
200,000	10-14
300,000	15-19

1 400,000 20-24

2 500,000 25 or more

3 (2) That the applicant is in good standing and in  
4 statutory compliance in the state or country of  
5 incorporation or when the applicant is an entity other than  
6 a corporation, is properly registered under the laws of  
7 this State or another state or country, and if required,  
8 the corporation or entity is authorized to do business in  
9 the State of Illinois.

10 (3) That the applicant has not been convicted ~~within~~  
11 ~~the 10 years preceding the application~~ of a felony under  
12 the laws of this State, another state, the United States,  
13 or a foreign jurisdiction.

14 (4) That no officer, director, controlling person, or  
15 principal of the applicant has been convicted ~~within the 10~~  
16 ~~years preceding the application~~ of a felony under the laws  
17 of this State, another state, the United States, or a  
18 foreign jurisdiction.

19 (5) That the financial responsibility, financial  
20 condition, business experience, character, and general  
21 fitness of the applicant and its management are such as to  
22 justify the confidence of the public and that the applicant  
23 is fit, willing, and able to carry on the proposed business  
24 in a lawful and fair manner.

25 (b) The Director may, for good cause shown, waive the  
26 requirement of items (3) and (4) of subsection (a) of this  
27 Section.

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

29 (205 ILCS 657/25)

30 Sec. 25. Application for license.

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

34 (1) The name of the applicant and the address of the  
35 principal place of business of the applicant and the

1 address of all locations and proposed locations of the  
2 applicant in this State.

3 (2) The form of business organization of the applicant,  
4 including:

5 (A) a copy of its articles of incorporation and  
6 amendments thereto and a copy of its bylaws, certified  
7 by its secretary, if the applicant is a corporation;

8 (B) a copy of its partnership agreement, certified  
9 by a partner, if the applicant is a partnership; or

10 (C) a copy of the documents that control its  
11 organizational structure, certified by a managing  
12 official, if the applicant is organized in some other  
13 form.

14 (3) The name, business and home address, and a  
15 chronological summary of the business experience, material  
16 litigation history, and felony convictions ~~over the~~  
17 ~~preceding 10 years~~ of:

18 (A) the proprietor, if the applicant is an  
19 individual;

20 (B) every partner, if the applicant is a  
21 partnership;

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

24 (D) each person in a position to exercise control  
25 over, or direction of, the business of the applicant,  
26 regardless of the form of organization of the  
27 applicant.

28 (4) Financial statements, not more than one year old,  
29 prepared in accordance with generally accepted accounting  
30 principles and audited by a licensed public accountant or  
31 certified public accountant showing the financial  
32 condition of the applicant and an unaudited balance sheet  
33 and statement of operation as of the most recent quarterly  
34 report before the date of the application, certified by the  
35 applicant or an officer or partner thereof. If the  
36 applicant is a wholly owned subsidiary or is eligible to

1 file consolidated federal income tax returns with its  
2 parent, however, unaudited financial statements for the  
3 preceding year along with the unaudited financial  
4 statements for the most recent quarter may be submitted if  
5 accompanied by the audited financial statements of the  
6 parent company for the preceding year along with the  
7 unaudited financial statement for the most recent quarter.

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

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

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

18 (8) A sample of the contract for agents ~~authorized~~  
19 ~~sellers~~.

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

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

25 (11) A surety bond as required by Section 30 of this  
26 Act.

27 (12) The applicable fees as required by Section 45 of  
28 this Act.

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

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

35 (15) All additional information the Director considers  
36 necessary in order to determine whether or not to issue the



1 applicant a license under this Act.

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

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

5 (205 ILCS 657/30)

6 Sec. 30. Surety bond.

7 (a) An applicant for a license shall post and a licensee  
8 must maintain with the Director a bond or bonds issued by  
9 corporations qualified to do business as surety companies in  
10 this State.

11 (b) The applicant or licensee shall post a bond in the  
12 amount of the greater of \$100,000 or an amount equal to the  
13 daily average of outstanding payment instruments for the  
14 preceding 12 months or operational history, whichever is  
15 shorter, up to a maximum amount of \$2,000,000. When the amount  
16 of the required bond exceeds \$1,000,000, the applicant or  
17 licensee may, in the alternative, post a bond in the amount of  
18 \$1,000,000 plus a dollar for dollar increase in the net worth  
19 of the applicant or licensee over and above the amount required  
20 in Section 20, up to a total amount of \$2,000,000.

21 (c) The bond must be in a form satisfactory to the Director  
22 and shall run to the State of Illinois for the benefit of any  
23 claimant against the applicant or licensee with respect to the  
24 receipt, handling, transmission, and payment of money by the  
25 licensee or agent ~~authorized seller~~ in connection with the  
26 licensed operations. A claimant damaged by a breach of the  
27 conditions of a bond shall have a right to action upon the bond  
28 for damages suffered thereby and may bring suit directly on the  
29 bond, or the Director may bring suit on behalf of the claimant.

30 (d) (Blank).

31 (e) (Blank).

32 (f) After receiving a license, the licensee must maintain  
33 the required bond plus net worth (if applicable) until 5 years  
34 after it ceases to do business in this State unless all  
35 outstanding payment instruments are eliminated or the

1 provisions under the Uniform Disposition of Unclaimed Property  
2 Act have become operative and are adhered to by the licensee.  
3 Notwithstanding this provision, however, the amount required  
4 to be maintained may be reduced to the extent that the amount  
5 of the licensee's payment instruments outstanding in this State  
6 are reduced.

7 (g) If the Director at any time reasonably determines that  
8 the required bond is insecure, deficient in amount, or  
9 exhausted in whole or in part, he may in writing require the  
10 filing of a new or supplemental bond in order to secure  
11 compliance with this Act and may demand compliance with the  
12 requirement within 30 days following service on the licensee.

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

14 (205 ILCS 657/37)

15 Sec. 37. Display of disclosure notice.

16 (a) Each agent ~~authorized seller~~ shall conspicuously  
17 display a disclosure notice supplied by the licensee; each  
18 licensee that transmits money directly shall also  
19 conspicuously display a disclosure notice.

20 (b) The disclosure notice shall contain the following  
21 information:

22 (1) In the case of an agent ~~authorized seller~~ only, the  
23 name of the authorized seller's licensee issuing the  
24 disclosure notice.

25 (2) A toll-free telephone number for the Department of  
26 Financial Institutions which will provide customer support  
27 for suspected violations of this Act.

28 (3) A statement that the authorization may be revoked  
29 at any time by the licensee.

30 (c) A licensee shall notify the Department within 30 days  
31 when an agent ~~authorized seller~~ is no longer an agent  
32 ~~authorized seller~~ for the licensee. An agent ~~authorized seller~~  
33 who has been terminated shall remove the disclosure notice from  
34 the premises within 10 business days after such termination. A  
35 terminated agent ~~authorized seller~~ who wilfully and knowingly

1 refuses to remove the disclosure notice within 10 business days  
2 of termination commits a Class B misdemeanor.

3 (d) If a customer of a former agent ~~authorized seller~~  
4 detrimentally relies on a disclosure notice that was not  
5 removed, the former agent ~~authorized seller~~ shall be civilly  
6 liable if the customer proves: (1) that the entity possessed  
7 the disclosure notice beyond 10 business days from the  
8 termination of authorization by the licensee, (2) that the  
9 entity held itself out as an agent ~~authorized seller~~, without  
10 informing the customer that the seller was no longer authorized  
11 by the licensee, (3) that the customer justifiably relied upon  
12 the conspicuously displayed disclosure notice formerly  
13 provided by the licensee, and (4) that the entity engaged in  
14 the business of transmitting money after its termination as an  
15 agent ~~authorized seller~~.

16 (e) As used in this Section, "civil liability" means  
17 liability for actual loss, reasonable attorney's fees, and  
18 costs.

19 (Source: P.A. 93-535, eff. 1-1-04.)

20 (205 ILCS 657/40)

21 Sec. 40. Renewals of license. As a condition for renewal of  
22 a license, a licensee must submit to the Director, and the  
23 Director must receive, on or before December 1 of each year, an  
24 application for renewal made in writing and under oath on a  
25 form prescribed by the Director. A licensee whose application  
26 for renewal is not received by the Department on or before  
27 December 31 shall not have its license renewed and shall be  
28 required to submit to the Director an application for a new  
29 license in accordance with Section 25. Upon a showing of good  
30 cause, the Director may extend the deadline for the filing of  
31 an application for renewal. The application for renewal of a  
32 license shall contain or be accompanied by all of the  
33 following:

34 (1) The name of the licensee and the address of the  
35 principal place of business of the licensee.

1           (2) A list of all locations where the licensee is  
2 conducting business under its license and a list of all  
3 agents ~~authorized sellers~~ through whom the licensee is  
4 conducting business under its license, including the name  
5 and business address of each agent ~~authorized seller~~.

6           (3) Audited financial statements covering the past  
7 year of operations, prepared in accordance with generally  
8 accepted accounting principles, showing the financial  
9 condition of the licensee. The licensee shall submit the  
10 audited financial statement after the application for  
11 renewal has been approved. The audited financial statement  
12 must be received by the Department no later than 120 days  
13 after the end of the licensee's fiscal year. If the  
14 licensee is a wholly owned subsidiary or is eligible to  
15 file consolidated federal income tax returns with its  
16 parent, the licensee may submit unaudited financial  
17 statements if accompanied by the audited financial  
18 statements of the parent company for its most recently  
19 ended year.

20           (4) A statement of the dollar amount and number of  
21 money transmissions and payment instruments sold, issued,  
22 exchanged, or transmitted in this State by the licensee and  
23 its agents ~~authorized sellers~~ for the past year.

24           (5) A statement of the dollar amount of uncompleted  
25 money transmissions and payment instruments outstanding or  
26 in transit, in this State, as of the most recent quarter  
27 available.

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

30           (7) Evidence sufficient to prove to the satisfaction of  
31 the Director that the licensee has complied with all  
32 requirements under Section 20 relating to its net worth,  
33 under Section 30 relating to its surety bond or other  
34 security, and under Section 50 relating to permissible  
35 investments.

36           (8) A statement of a change in information provided by

1 the licensee in its application for a license or its  
2 previous applications for renewal including, but not  
3 limited to, new directors, officers, agents ~~authorized~~  
4 ~~sellers~~, or clearing banks and material changes in the  
5 operation of the licensee's business.

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

7 (205 ILCS 657/45)

8 Sec. 45. Fees.

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

12 (1) For applying for a license, an application fee of  
13 \$100 and a license fee, which shall be refunded if the  
14 application is denied or withdrawn, of \$100 plus \$100 ~~\$10~~  
15 for each location at which the applicant and its agents  
16 ~~authorized sellers~~ are conducting business or propose to  
17 conduct business excepting the applicant's principal place  
18 of business.

19 (2) For renewal of a license, a fee of \$100 plus \$100  
20 ~~\$10~~ for each location at which the licensee and its agents  
21 ~~authorized sellers~~ are conducting business, except the  
22 licensee's principal place of business.

23 (3) For an application to add an agent ~~authorized~~  
24 ~~seller~~ location, \$100 ~~\$10~~ for each agent ~~authorized seller~~  
25 location.

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

28 (5) For an application for renewal of a license  
29 received by the Department after December 1, a penalty fee  
30 of \$10 per day for each day after December 1 in addition to  
31 any other fees required under this Act unless an extension  
32 of time has been granted by the Director.

33 (6) For failure to submit financial statements as  
34 required by Section 40, a penalty fee of \$10 per day for  
35 each day the statement is late unless an extension of time

1 has been granted by the Director.

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

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

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

8 (205 ILCS 657/50)

9 Sec. 50. Permissible investments.

10 (a) A licensee shall maintain at all times permissible  
11 investments that have an aggregate market value computed in  
12 accordance with generally accepted accounting principles of  
13 not less than the aggregate amount of all its outstanding  
14 payment instruments and other transfers, except to the extent  
15 the amount is reduced from permissible investments under its  
16 method of accounting. The permissible investments may be owned  
17 by the licensee and, the investments, in an amount equal to the  
18 outstanding payment instruments issued and sold in this State,  
19 even if commingled with other assets of the licensee, shall be  
20 deemed by operation of law to be held in trust for the benefit  
21 of the purchasers of the licensee's outstanding payment  
22 instruments in Illinois in the event of the bankruptcy or  
23 insolvency of the licensee. Permissible investments include,  
24 but are not limited to, all of the following unencumbered  
25 items:

26 (1) Cash on hand or on deposit in the name of the  
27 licensee.

28 (2) Certificates of deposit of a bank, savings and loan  
29 association, or credit union.

30 (3) Bills of exchange or time drafts that are drawn on  
31 and accepted by a bank, otherwise known as banker's  
32 acceptances, and that are eligible for purchase by member  
33 banks of the Federal Reserve System.

34 (4) Commercial paper bearing a rating of one of the 3  
35 highest grades as defined by a nationally recognized

1 organization that rates these securities.

2 (5) Securities, obligations, or other instruments,  
3 whose payment is guaranteed by the general taxing authority  
4 of the issuer, of the United States or any state or of any  
5 other governmental entity or political subdivision or  
6 instrumentality of a governmental entity that bear a rating  
7 of one of the 3 highest grades by Moody's Investor's  
8 Service, Inc. or Standard and Poor's Corporation.

9 (6) Bonds or other obligations of a corporation  
10 organized in a state of the United States, the District of  
11 Columbia, the Commonwealth of Puerto Rico, or the several  
12 territories organized by Congress that bear a rating of one  
13 of the 3 highest grades by Moody's Investor's Service, Inc.  
14 or Standard and Poor's Corporation.

15 (7) Investment securities that are obligations of the  
16 United States or its agencies or instrumentalities or  
17 obligations that are guaranteed fully as to principal and  
18 interest by the United States.

19 (8) Receivables that are due a licensee from its agents  
20 ~~authorized sellers~~ pursuant to contract described in  
21 Section 75 that are not past due or doubtful of collection.

22 (b) Notwithstanding any other provision of this Act, the  
23 Director, with respect to any particular licensee or all  
24 licensees, may approve other permissible investments or limit  
25 the extent to which any class of permissible investments,  
26 except for money and certificates of deposit, may be considered  
27 a permissible investment.

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

29 (205 ILCS 657/55)

30 Sec. 55. Reporting; examination; investigation.

31 (a) The Director may require from a licensee any reports,  
32 under penalty of perjury, concerning the licensee's or its  
33 agent's ~~authorized seller's~~ business conducted under the  
34 license issued under this Act that the Director considers  
35 necessary for the enforcement of this Act.

1 (b) A licensee must report to the Director any change of  
2 its principal place of business, or its headquarters office if  
3 different from its principal place of business, even if located  
4 outside of this State and a change of any other location at  
5 which it or any of its agents ~~authorized sellers~~ are conducting  
6 business regulated by this Act, within 15 days after the  
7 effective date of the change.

8 (c) A licensee must report to the Director any of the  
9 following significant developments pertaining to it or any  
10 agent ~~authorized seller~~ within 15 days after the licensee has  
11 actual notice of its occurrence:

12 (1) The filing for bankruptcy or for reorganization  
13 under the bankruptcy laws.

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

16 (3) A felony indictment related to the money  
17 transmission activities of the licensee or its agents  
18 ~~authorized sellers~~ in this State or of the licensee's or  
19 agent's ~~authorized seller's~~, officers, directors,  
20 controlling persons, or principals.

21 (4) A felony conviction related to the money  
22 transmission activities of the licensee or its agents  
23 ~~authorized sellers~~ in this State or of the licensee's or  
24 agent's ~~authorized seller's~~, officers, directors,  
25 controlling persons or principals.

26 (d) A licensee that is a publicly traded corporation or a  
27 subsidiary of a publicly traded corporation or a nonpublicly  
28 traded corporation must notify the Director within 15 days  
29 whenever a person becomes a controlling person. Upon  
30 notification, the Director may require all information he  
31 considers necessary to determine if a new application is  
32 required. A licensee that is an entity other than a corporation  
33 shall submit a new application to the Director seeking prior  
34 approval whenever a person proposes to become a controlling  
35 person or acquire an ownership interest.

36 (e) The Director at any time either in person or through an



1 appointed representative may visit and examine a licensee or  
2 agent ~~authorized seller~~. Unless it will interfere with the  
3 Director's duties under this Act, reasonable notice shall be  
4 given to the licensee or agent ~~authorized seller~~. In conducting  
5 the examination, the Director or appointed representative  
6 shall have full and free access to all the books, papers, and  
7 records of the licensee that relate to its business and to the  
8 books, papers, and records kept by any of its agents ~~authorized~~  
9 ~~sellers~~ and may examine the directors, officers, members,  
10 agents, and employees of any licensee or agent ~~authorized~~  
11 ~~seller~~ or any other person in relation to its affairs,  
12 transactions, and condition.

13 (f) On-site examinations of licensees or agents ~~authorized~~  
14 ~~sellers~~ prescribed by this Act may be conducted in conjunction  
15 with representatives of other State agencies or agencies of  
16 another state or of the United States, as determined by the  
17 Director.

18 (g) For the purpose of defraying examination expenses  
19 incurred by the Director, a licensee or agent ~~authorized seller~~  
20 shall pay an examination fee established by rule and the actual  
21 expenses of the examination.

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

23 (205 ILCS 657/60)

24 Sec. 60. Records maintenance.

25 (a) A licensee shall keep and use in its business books,  
26 accounts, and records in accordance with generally accepted  
27 accounting principles that will enable the Director to  
28 determine whether the licensee is complying with the provisions  
29 of this Act or any other Act the administration of which is  
30 vested in the Director. A licensee shall preserve all of the  
31 following records or such data as may be in electronic or other  
32 retrievable form for at least 5 years:

33 (1) General ledger records.

34 (2) Settlement sheets received from agents ~~authorized~~  
35 ~~transmitter sellers~~.

1 (3) All records of final entry.

2 (4) Bank statements.

3 (5) Bank reconciliation records.

4 (b) A licensee shall require and its agents ~~authorized~~  
5 ~~sellers~~ must preserve for at least 5 years all documents  
6 relating to money transmission activities, unless the data  
7 embodied in those documents has been transmitted for  
8 recordation by the licensee.

9 (c) The records of the licensee regarding the business  
10 regulated under this Act shall be maintained at its principal  
11 place of business or, with notice to the Director, at another  
12 location designated by the licensee. If the records are  
13 maintained outside this State, the licensee shall make them  
14 accessible to the Director.

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

16 (205 ILCS 657/65)

17 Sec. 65. Notice of source of instrument; transaction  
18 records.

19 (a) Every payment instrument other than a stored value card  
20 sold through an agent ~~authorized seller~~ shall bear the name of  
21 the licensee and a unique consecutive number clearly stamped or  
22 imprinted on it. When an order for the transmission of money  
23 results in the issuance of a payment instrument, both the order  
24 and the payment instrument may bear the same unique number.

25 (b) A licensee or agent ~~authorized seller~~ shall create a  
26 record, which may be reduced to computer or other electronic  
27 medium, upon receiving any money from a customer.

28 (c) For each payment instrument other than a stored value  
29 card sold, the licensee shall require the agent ~~authorized~~  
30 ~~seller~~ to record the face amount of the payment instrument and  
31 the serial number of the payment instrument.

32 (d) For each transmission of money, the licensee or agent  
33 ~~authorized seller~~ shall record the date the money was received,  
34 the face amount of the payment instrument, the name of the  
35 customer, the manner of transmission, including the identity

1 and location of any bank or other financial institution  
2 receiving or otherwise involved in accomplishing the  
3 transmission, the location to which the money is transmitted if  
4 different from the bank or other financial institution required  
5 to be recorded, the name of the intended recipient, and the  
6 date the transmission was accomplished or the money was  
7 refunded to the customer due to an inability to transmit or  
8 failure of the intended recipient to receive or obtain the  
9 money transmitted. The transmission shall be made by the  
10 licensee or agent ~~authorized seller~~ within 3 business days  
11 after the receipt of the money to be transmitted. The licensee  
12 or agent ~~authorized seller~~, in addition to the records required  
13 to be kept, shall issue a receipt to each person delivering or  
14 depositing money with the licensee or agent ~~authorized seller~~  
15 indicating the date of the transaction, the face amount of the  
16 payment instrument, to whom the money is to be transmitted, the  
17 service charge, and the name and address of the licensee or  
18 agent ~~authorized seller~~. The receipt or a separate disclosure  
19 at the time of the money transmission shall also include a  
20 statement of the licensee's refund procedures as well as a  
21 toll-free telephone number for customer assistance. An  
22 inadvertent or non-wilful failure to give a consumer the  
23 disclosure provided for in this Section shall not constitute a  
24 violation of this Act. The licensee or agent ~~authorized seller~~  
25 shall keep a copy of every receipt in a permanent record book  
26 or maintain the data embodied in the receipt using  
27 photographic, electronic, or other means.

28 (e) For each exchange of money of the United States  
29 government or a foreign government to or from money of another  
30 government, the licensee or agent ~~authorized seller~~ shall  
31 record the date of the transaction, the amount of the  
32 transaction, the amount of funds stated in currency received by  
33 the recipient, and the rate of exchange at the time of the  
34 transaction. The licensee or agent ~~authorized seller~~, in  
35 addition to the records required to be kept, shall issue a  
36 receipt to each person delivering or depositing money with the

1 licensee or agent ~~authorized seller~~ indicating the date of the  
2 transaction, the amount of the transaction, the service charge,  
3 and the name and address of the licensee or agent ~~authorized~~  
4 ~~seller~~ making the transaction. The licensee or agent ~~authorized~~  
5 ~~seller~~ shall keep a copy of every receipt in a permanent record  
6 book or maintain data embodied in the receipt using  
7 photographic, electronic, or other means.

8 (f) Records required to be kept by the licensee or agent  
9 ~~authorized seller~~ under this Act shall be preserved for at  
10 least 5 years or as required to comply with any other Act the  
11 administration of which is vested in the Director. The records  
12 shall be made available for examination in accordance with  
13 Sections 55 and 60 of this Act.

14 (Source: P.A. 93-535, eff. 1-1-04.)

15 (205 ILCS 657/75)

16 Sec. 75. Agents ~~Authorized sellers~~.

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

20 (b) No person shall act as an agent of a licensee, or act  
21 in any other similar capacity, and no licensee shall appoint  
22 another person to act as an agent, or to act in any other  
23 similar capacity, for the receipt of transmission money on  
24 behalf of that licensee, without first obtaining the  
25 authorization of the Director ~~A licensee shall not allow a~~  
26 ~~person to act as its authorized seller until all applicable~~  
27 ~~requirements of this Act have been complied with and the name~~  
28 ~~and address of the person, on a form prescribed by the~~  
29 ~~Director, along with all applicable fees have been submitted to~~  
30 ~~the Department by the licensee.~~

31 (c) An application for the appointment of an agent shall be  
32 submitted to the Director by a licensee for each proposed  
33 agent, and shall be in writing, under oath, and in a form  
34 prescribed by the Director. The application shall contain that  
35 information which the Director may require ~~A licensee shall~~

~~enter into a contract with its authorized seller detailing the nature and scope of the relationship between the licensee and the authorized seller. The contract between a licensee and an authorized seller must require the authorized seller to operate in full compliance with the laws of this State and of the United States. The licensee shall provide the Director with the sample written contract.~~

(d) If the application for the appointment of an agent is not approved or denied within 45 days after the application is filed with the Director, the application shall be deemed approved by the Director.

For the purposes of this Section, an application for the appointment of an agent is deemed to be filed with the Director at the time the complete application, including any amendments or supplements and containing all the information in the form required by the Director, is received by the Director.

The Director may disapprove the application for the appointment of an agent by a licensee if the Director finds any of the following:

(1) That the operations and financial conditions indicate that the licensee is not competent to appoint the proposed agent to receive transmissions of money and to supervise the proposed agent.

(2) That the proposed agent, any person who controls the proposed agent, and any director or officer of the proposed agent, if any, are not of good character or of sound financial standing.

(3) That the proposed agent is not competent to engage in the business of receiving money for transmission.

(4) That it is reasonable to believe that the proposed agent, if appointed agent, will not comply with all applicable provisions of this Act. The financial responsibility of a licensee for the actions of its authorized seller shall not exceed the amount of funds received by the authorized seller on behalf of its licensee for transmission.

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

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

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

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

35           (i) A licensee shall report the removal of an agent  
36 ~~authorized seller~~ location or the termination of operations of

1 an agent ~~authorized seller~~ location to the Director on a  
2 quarterly basis.

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

7 (k) The Director may issue an order revoking or suspending  
8 any authorization issued pursuant to this Section, if, after a  
9 hearing, the Director finds any of the following:

10 (1) The agent has violated any rule adopted by the  
11 Director under this Act.

12 (2) Any fact or condition exists which would be grounds  
13 for denying an application for authorizing an agent.

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

15 (205 ILCS 657/80)

16 Sec. 80. Revocation or suspension of licenses.

17 (a) The Director may suspend or revoke a license if the  
18 Director finds any of the following:

19 (1) The licensee has knowingly made a material  
20 misstatement or suppressed or withheld information on an  
21 application for a license or a document required to be  
22 filed with the Director.

23 (2) A fact or condition exists that, if it had existed  
24 or had been known at the time the licensee applied for its  
25 license, would have been grounds for denying the  
26 application.

27 (3) The licensee is insolvent.

28 (4) The licensee has knowingly violated a material  
29 provision of this Act or rules adopted under this Act or an  
30 order of the Director.

31 (5) The licensee refuses to permit the Director to make  
32 an examination at reasonable times as authorized by this  
33 Act.

34 (6) The licensee knowingly fails to make a report  
35 required by this Act.

1           (7) The licensee fails to pay a judgment entered in  
2 favor of a claimant, plaintiff, or creditor in an action  
3 arising out of the licensee's business regulated under this  
4 Act within 30 days after the judgment becomes final or  
5 within 30 days after expiration or termination of a stay of  
6 execution.

7           (8) The licensee has been convicted under the laws of  
8 this State, another state, or the United States of a felony  
9 or of a crime involving a breach of trust or dishonesty.

10           (9) The licensee has failed to suspend or terminate its  
11 agent's ~~authorized seller's~~ authority to act on its behalf  
12 when the licensee knew its agent ~~authorized seller~~ was  
13 violating or had violated a material provision of this Act  
14 or rules adopted under this Act or an order of the  
15 Director.

16           (b) In every case in which a license is suspended or  
17 revoked or an application for a license or renewal of a license  
18 is denied, the Director shall serve notice of his action,  
19 including a statement of the reasons for his action, either  
20 personally or by certified mail, return receipt requested.  
21 Service by mail shall be deemed completed if the notice is  
22 deposited in the post office, postage paid, addressed to the  
23 last known address specified in the application for a license.

24           (c) In the case of denial of an application for a license  
25 or renewal of a license, the applicant or licensee may request  
26 in writing, within 30 days after the date of service, a  
27 hearing. In the case of a denial of an application for renewal  
28 of a license, the expiring license shall be deemed to continue  
29 in force until 30 days after the service of the notice of  
30 denial or, if a hearing is requested during that period, until  
31 a final order is entered pursuant to a hearing.

32           (d) The order of suspension or revocation of a license  
33 shall take effect upon service of the order. The holder of any  
34 suspended or revoked license may request in writing, within 30  
35 days after the date of service, a hearing. In the event a  
36 hearing is requested, the order shall remain temporary until a



1 final order is entered pursuant to the hearing.

2 (e) The hearing shall be held at the time and place  
3 designated by the Director in either the City of Springfield or  
4 the City of Chicago. The Director and any administrative law  
5 judge designated by him shall have the power to administer  
6 oaths and affirmations, subpoena witnesses and compel their  
7 attendance, take evidence, authorize the taking of  
8 depositions, and require the production of books, papers,  
9 correspondence, and other records or information that he  
10 considers relevant or material to the inquiry.

11 (f) The Director may issue an order of suspension or  
12 revocation of a license that takes effect upon service of the  
13 order and remains in effect regardless of a request for a  
14 hearing when the Director finds that the public welfare will be  
15 endangered if the licensee is permitted to continue to operate  
16 the business regulated by this Act.

17 (g) The decision of the Director to deny any application  
18 for a license or renewal of a license or to suspend or revoke a  
19 license is subject to judicial review under the Administrative  
20 Review Law.

21 (h) The costs for administrative hearing shall be set by  
22 rule.

23 (i) Appeals from all final orders and judgments entered by  
24 the circuit court under this Section in review of a decision of  
25 the Director may be taken as in other civil actions by any  
26 party to the proceeding.

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

28 (205 ILCS 657/85)

29 Sec. 85. Liability of licensees. A licensee is liable for  
30 the payment of all moneys covered by payment instruments that  
31 it sells or issues in any form in this State through its agents  
32 ~~authorized sellers~~ and all moneys it receives itself or through  
33 its agents ~~authorized sellers~~ for transmission by any means  
34 whether or not any instrument is a negotiable instrument under  
35 the laws of this State.

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

2 (205 ILCS 657/95)

3 Sec. 95. Rules. The Director may adopt rules as needed to  
4 license transmitters of money and authorize agents of  
5 transmitters of money, and to implement, interpret, and enforce  
6 the provisions of this Act.

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

8 Section 99. Effective date. This Act takes effect upon  
9 becoming law.