WEST VIRGINIA LEGISLATURE
Regular Session, 2001

ENROLLED

SENATE BILL NO. 416

(By Senators Minard and Kessler)

PASSED April 12, 2001

In Effect 90 days from Passage
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(BY SENATORS MINARD AND KESSLER)

[Passed April 12, 2001; in effect ninety days from passage.]

AN ACT to amend and reenact sections one and two, article two, chapter thirty-two-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to the regulation of money transmission services; defining terms; currency transmission; money transmission; and providing that engaging in the business of currency exchange includes making such services available to West Virginia citizens via an internet website.

Be it enacted by the Legislature of West Virginia:

That sections one and two, article two, chapter thirty-two-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

ARTICLE 2. CHECKS AND MONEY ORDER SALES, MONEY TRANSMISSION SERVICES, TRANSPORTATION AND CURRENCY EXCHANGE.

§32A-2-1. Definitions.
(1) "Commissioner" means the commissioner of banking of this state.

(2) "Check" or "payment instrument" means any check, traveler's check, draft, money order or other instrument for the transmission or payment of money whether or not the instrument is negotiable. The term does not include a credit card voucher, a letter of credit or any instrument that is redeemable by the issuer in goods or services.

(3) "Currency" means a medium of exchange authorized or adopted by a domestic or foreign government.

(4) "Currency exchange" means the conversion of the currency of one government into the currency of another government, but does not include the issuance and sale of travelers checks denominated in a foreign currency. Transactions involving the electronic transmission of funds by licensed money transmitters which may permit, but do not require, the recipient to obtain the funds in a foreign currency outside of West Virginia are not currency exchange transactions: Provided, That they are not reportable as currency exchange transactions under federal laws and regulations.

(5) "Currency exchange, transportation, transmission business" means a person who is engaging in currency exchange, currency transportation or currency transmission as a service or for profit.

(6) "Currency transmission" or "money transmission" means engaging in the business of selling or issuing checks or the business of receiving currency or the payment of money by any means for the purpose of transmitting that currency, payment of money or its equivalent by wire, facsimile or other electronic means, or through the use of a financial institution, financial intermediary, the federal reserve system or other funds transfer network. It includes the transmission of funds through the issuance and sale of
stored value cards which are intended for general acceptance and used in commercial or consumer transactions.

(7) “Currency transportation” means knowingly engaging in the business of physically transporting currency from one location to another in a manner other than by a licensed armored car service exempted under section three of this article.

(8) “Licensee” means a person licensed by the commissioner under this article.

(9) “Money order” means any instrument for the transmission or payment of money in relation to which the purchaser or remitter appoints or purports to appoint the seller thereof as his agent for the receipt, transmission or handling of money, whether the instrument is signed by the seller, the purchaser or remitter, or some other person.

(10) “Person” means any individual, partnership, association, joint stock association, limited liability company, trust or corporation.

(11) “Principal” means a licensee’s owner, president, senior officer responsible for the licensee’s business, chief financial officer or any other person who performs similar functions or who otherwise controls the conduct of the affairs of a licensee. A person controlling ten percent or more of the voting stock of any corporate applicant is a principal under this provision.

(12) “Securities” means all bonds, debentures or other evidences of indebtedness: (a) Issued by the United States of America or any agency thereof, or guaranteed by the United States of America, or for which the credit of the United States of America or any agency thereof is pledged for the payment of the principal and interest thereof; and/or (b) which are direct general obligations of this state, or any other state if unconditionally guaranteed as to the principal and interest by the other state and if the other state has the power to levy taxes for the payment of
the principal and interest thereof and is not in default in
the payment of any part of the principal or interest owing
by it upon any part of its funded indebtedness; and/or (c)
which are general obligations of any county, school district
or municipality in this state, issued pursuant to law and
payable from ad valorem taxes levied on all of the taxable
property located therein, if the county, school district or
municipality is not in default in the payment of any part
of the principal or interest on any debt evidenced by its
bonds, debentures or other evidences of indebtedness.

§32A-2-2. License required.

(a) Except as provided by section three of this article, a
person may not engage in the business of currency ex-
change, transportation or transmission in this state
without a license issued under this article. For purposes of
this article, a person is considered to be engaging in those
businesses in this state if he or she makes available, from
a location inside or outside this state, an internet website
West Virginia citizens may access in order to enter into
those transactions by electronic means.

(b) Any person who was previously licensed as a check
seller under this chapter who holds a valid license on the
effective date of this article shall be issued a provisional
license under this article without the need of an additional
application and fee. This provisional license shall expire
upon six months of its issuance, during which time the
licensee may continue to conduct its check selling busi-
ness, provided that it maintains the net worth and security
required under its previous license. The commissioner may
require the licensee to obtain expanded bond coverage
consistent with this article for the protection of purchasers
of money transmission services and currency exchange
services, as well as for covered currency transportation
services, when the licensee conducts one or more of these
businesses. At the expiration of a provisional license
granted by this section, any person who wishes to continue
to engage in any business regulated in this article shall
apply for a license and meet the criteria under the provisions of this article. A provisional license granted by this section may upon hearing be suspended or revoked by the commissioner for good cause shown.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 2nd Day of May, 2001.

Governor
PRESENTED TO THE
GOVERNOR
Date 4/24/01
Time 4:10 AM