

FILED ✓

2001 MAY -2 P 11:31

OFFICE WEST VIRGINIA
SECRETARY OF STATE

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

FILED

2001 MAY -2 P 11: 31

OFFICE WEST VIRGINIA
SECRETARY OF STATE

ENROLLED

Senate Bill No. 416

(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.

FILED

1 (1) "Commissioner" means the commissioner of banking
2 of this state.

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

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

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

22 (5) "Currency exchange, transportation, transmission
23 business" means a person who is engaging in currency
24 exchange, currency transportation or currency transmis-
25 sion as a service or for profit.

26 (6) "Currency transmission" or "money transmission"
27 means engaging in the business of selling or issuing checks
28 or the business of receiving currency or the payment of
29 money by any means for the purpose of transmitting that
30 currency, payment of money or its equivalent by wire,
31 facsimile or other electronic means, or through the use of
32 a financial institution, financial intermediary, the federal
33 reserve system or other funds transfer network. It includes
34 the transmission of funds through the issuance and sale of

35 stored value cards which are intended for general accep-
36 tance and used in commercial or consumer transactions.

37 (7) "Currency transportation" means knowingly engag-
38 ing in the business of physically transporting currency
39 from one location to another in a manner other than by a
40 licensed armored car service exempted under section three
41 of this article.

42 (8) "Licensee" means a person licensed by the commis-
43 sioner under this article.

44 (9) "Money order" means any instrument for the trans-
45 mission or payment of money in relation to which the
46 purchaser or remitter appoints or purports to appoint the
47 seller thereof as his agent for the receipt, transmission or
48 handling of money, whether the instrument is signed by
49 the seller, the purchaser or remitter, or some other person.

50 (10) "Person" means any individual, partnership,
51 association, joint stock association, limited liability
52 company, trust or corporation.

53 (11) "Principal" means a licensee's owner, president,
54 senior officer responsible for the licensee's business, chief
55 financial officer or any other person who performs similar
56 functions or who otherwise controls the conduct of the
57 affairs of a licensee. A person controlling ten percent or
58 more of the voting stock of any corporate applicant is a
59 principal under this provision.

60 (12) "Securities" means all bonds, debentures or other
61 evidences of indebtedness: (a) Issued by the United States
62 of America or any agency thereof, or guaranteed by the
63 United States of America, or for which the credit of the
64 United States of America or any agency thereof is pledged
65 for the payment of the principal and interest thereof;
66 and/or (b) which are direct general obligations of this
67 state, or any other state if unconditionally guaranteed as
68 to the principal and interest by the other state and if the
69 other state has the power to levy taxes for the payment of

70 the principal and interest thereof and is not in default in
71 the payment of any part of the principal or interest owing
72 by it upon any part of its funded indebtedness; and/or (c)
73 which are general obligations of any county, school district
74 or municipality in this state, issued pursuant to law and
75 payable from ad valorem taxes levied on all of the taxable
76 property located therein, if the county, school district or
77 municipality is not in default in the payment of any part
78 of the principal or interest on any debt evidenced by its
79 bonds, debentures or other evidences of indebtedness.

§32A-2-2. License required.

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

10 (b) Any person who was previously licensed as a check
11 seller under this chapter who holds a valid license on the
12 effective date of this article shall be issued a provisional
13 license under this article without the need of an additional
14 application and fee. This provisional license shall expire
15 upon six months of its issuance, during which time the
16 licensee may continue to conduct its check selling busi-
17 ness, provided that it maintains the net worth and security
18 required under its previous license. The commissioner may
19 require the licensee to obtain expanded bond coverage
20 consistent with this article for the protection of purchasers
21 of money transmission services and currency exchange
22 services, as well as for covered currency transportation
23 services, when the licensee conducts one or more of these
24 businesses. At the expiration of a provisional license
25 granted by this section, any person who wishes to continue
26 to engage in any business regulated in this article shall

27 apply for a license and meet the criteria under the provi-
28 sions of this article. A provisional license granted by this
29 section may upon hearing be suspended or revoked by the
30 commissioner for good cause shown.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Handwritten Signature]

Chairman Senate Committee

[Handwritten Signature]

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Handwritten Signature]

Clerk of the Senate

[Handwritten Signature]

Clerk of the House of Delegates

[Handwritten Signature]

President of the Senate

[Handwritten Signature]

Speaker House of Delegates

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

[Handwritten Signature]

Governor

PRESENTED TO THE

GOVERNOR

Date 4/24/01

Time 11:00 am