

No. 1977-25

AN ACT

SB 400

Amending the act of September 2, 1965 (P.L.490, No.249), entitled "An act providing for the licensing and regulation of the business of transmitting money or credit for a fee or other consideration by the issuance of money orders, by the sale of checks or by other methods; conferring powers and duties upon the Department of Banking; and imposing penalties," further stating application requirements; increasing net worth and bonding minimums; revising license fees; providing for immediate suspension of a license; and providing for assessment of examination costs.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Sections 4, 5, 6, 9, 13 and 15, act of September 2, 1965 (P.L.490, No.249), entitled "An act providing for the licensing and regulation of the business of transmitting money or credit for a fee or other consideration by the issuance of money orders, by the sale of checks or by other methods; conferring powers and duties upon the Department of Banking; and imposing penalties," are amended to read:

Section 4. Qualifications for a License.—To qualify for a license hereunder an applicant shall

(1) have a net worth of at least **[two hundred thousand dollars (\$200,000)] five hundred thousand dollars (\$500,000)**;

(2) in the case of an individual, have at least five years' experience in business and be of good character and reputation, or, in the case of an organization, have officers and directors who meet the requirements specified in this clause for an individual applicant; and

(3) undertake to operate the business honestly, fairly and in accordance with this act.

No applicant shall be qualified to receive a license if he or, in the event that the applicant is an organization, if any of its officers or directors has been convicted within five years of violating this act.

Section 5. Application for License.—Applications for license shall be in writing under oath and in the form prescribed by the Department of Banking. Among other things, the application shall state the full name of

(1) the applicant, if an individual;

(2) each partner, if the applicant is a partnership;

(3) each trustee and officer thereof, if the applicant is a trust; **[and]**

(4) each officer and director thereof, if the applicant is a corporation, joint stock association or other unincorporated association;

(5) each other business in which applicant and any affiliated companies are engaged; and

(6) the name and address of each agent or subagent conducting business in this Commonwealth.

Section 6. Fee, Financial Statement and Security.—(a) Each application for a license shall be accompanied by

(1) an investigation fee of [**five hundred dollars (\$500)**] *one thousand dollars (\$1,000)* which shall not be subject to refund but which, if the license is granted, shall constitute the license fee for the first license period. The renewal fee shall [**also**] be [**five hundred dollars (\$500)**] *three hundred dollars (\$300)*;

(2) a financial statement showing a net worth of at least [**two hundred thousand dollars (\$200,000)**] *five hundred thousand dollars (\$500,000)*;

(3) a bond in the penal sum of [**two hundred thousand dollars (\$200,000)**] *one million dollars (\$1,000,000)* executed by a surety company authorized to transact business within the Commonwealth of Pennsylvania or securities as provided in the following subsection. The bond shall run to the Commonwealth of Pennsylvania and shall be for the use of the Commonwealth and of any person or persons who may have a cause of action against the licensee for failure to carry out the terms of any transmittal instrument which the licensee shall have issued *and who were residents of the Commonwealth of Pennsylvania at the time the cause of action arose*. The condition of the bond shall be that the licensee will comply with and abide by the provisions of this act and the rules and regulations of the Department of Banking lawfully promulgated under this act and that the licensee will pay to the Commonwealth, to the Department of Banking or to any other person any moneys that may become due from the licensee to the Commonwealth or to the Department of Banking or to any other person under the provisions of this act or of any transmittal instrument issued by the licensee within this Commonwealth *and who were residents of the Commonwealth of Pennsylvania at the time the cause of action arose*. If any person shall be aggrieved by the misconduct of any licensee, he may upon recovering judgment against such licensee, issue execution under such judgment and maintain an action upon the bond of the licensee in any court having jurisdiction of the amount claimed, provided the Department of Banking assents thereto.

(b) In lieu of the bond required by clause (3) of subsection (a) hereof, the applicant may deposit with the Department of Banking or with the State Treasurer of the Commonwealth of Pennsylvania bonds, notes, debentures or other obligations of the United States or any agency or instrumentality thereof if guaranteed by the United States, or such bonds, notes, debentures or other obligations of this Commonwealth or of a political subdivision thereof having a market value of at least [**two hundred thousand dollars (\$200,000)**] *one million dollars (\$1,000,000)*; and it shall be the obligation of the licensee to see to it that the securities on deposit shall have a market value of at least [**two hundred thousand dollars (\$200,000)**] *one million dollars (\$1,000,000)* at all times. The depositor shall be entitled to receive all interest and dividends thereon, and shall have the right, with the approval of the Department of Banking, to substitute other securities for those deposited. Should the securities on deposit at any time

have a market value of less than **[two hundred thousand dollars (\$200,000)] one million dollars (\$1,000,000)** the Department of Banking may revoke the license as hereinafter provided. All securities deposited shall be held under the same conditions and subject to the same right of execution as the bond provided for in clause (3) of subsection (a) hereof.

(b.1) If the Department of Banking, in its discretion, shall determine the bond or deposit of securities provided for in clause (3) of subsection (a) and subsection (b) hereof is not adequate, the Department of Banking may require an additional bond or the deposit of additional securities in an amount up to one million dollars (\$1,000,000); subject to the same conditions and the same right of execution provided for in clause (3) of subsection (a) and subsection (b) hereof.

(c) Should any licensee become insolvent, the principal sum of the bond or the securities deposited in lieu of a bond shall be applied to the payment in full of claims arising out of the issuance of transmittal instruments in this Commonwealth.

Section 9. Renewal of Licenses.—(a) All applications for renewals of licenses shall be filed with the Department of Banking at least sixty days before the expiration date of the license. Unless the department shall have given to the applicant twenty days' previous notice of objections to the renewal of his license based upon the violation of this act or upon the licensee's failure any longer to have the qualifications required for the issuance of a license, the license shall be renewed upon the payment of the renewal fee.

(b) The renewal application shall be accompanied by a bond or evidence of the maintenance with the State Treasurer of a deposit of securities in conformity with the requirements applicable to an original application for license. The bond or securities shall be in the same amounts and subject to the same terms and conditions as in the case of an original application, ***unless an additional bond or deposit of securities is required under the provisions of subsection (c) of section 6.***

(c) No investigation fee shall be payable to the Department of Banking upon the filing of an application for license renewal.

Section 13. Hearing and Appeal.—(a) No license shall be **[suspended or]** revoked except after a hearing. **[and the] The** Department of Banking shall hold a hearing when properly requested to do so by an applicant whose application for a license has been denied. ***A licensee whose license is suspended by the Department of Banking shall be entitled to a hearing.*** The Department of Banking shall give the applicant or licensee twenty days' written notice of the time and place of hearing by registered or certified mail addressed to the principal place of business of the applicant or licensee.

(b) A full and complete record of all hearings shall be made, ***and the cost of such record shall be borne by the applicant or licensee.***

(c) All adjudications shall be in writing, shall contain findings and the reason for the adjudication, and shall be served upon all parties or their counsel personally or by registered or certified mail.

(d) Any party aggrieved by an adjudication of the Department of Banking shall have the right to appeal to the [Court of Common Pleas of Dauphin County] *Commonwealth Court* within thirty days after service of the Department of Banking's adjudication.

Section 15. Examinations by the Secretary of Banking.—The Secretary of Banking, and any person designated by him for that purpose, **[may at any time] annually shall** investigate the business and affairs and examine the books, accounts, papers, records, documents, and files of every licensee and of every person who shall be engaged in business contemplated by this act. For this purpose the Secretary of Banking shall have free access to the offices and places of business, books, accounts, papers, records, documents, files, safes and vaults of all such persons. A person, who is not licensed under this act, shall be presumed to be engaged in business contemplated by this act if he advertises or solicits business for which a license is required by the provisions of this act, and the Secretary of Banking, and any person designated by him for that purpose, is in such cases authorized to examine the books, accounts, papers, records, documents, files, safes and vaults of such persons for the purpose of discovering violations of this act. ***The cost for examinations shall be paid by the licensee, or a person who is not licensed under this act but presumed to be engaged in business contemplated by this act.***

Section 2. This act shall take effect immediately.

APPROVED—The 9th day of July, A. D. 1977.

MILTON J. SHAPP