

VIRGINIA ACTS OF ASSEMBLY -- 2009 SESSION

CHAPTER 346

An Act to amend and reenact §§ 6.1-370 through 6.1-374, 6.1-375, 6.1-377, 6.1-378, 6.1-378.2, 6.1-378.3, and 6.1-378.4 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 6.1-374.1, 6.1-374.2, and 6.1-378.5 through 6.1-378.8, relating to money order sales and money transmission services.

[H 1886]

Approved March 27, 2009

Be it enacted by the General Assembly of Virginia:

1. That §§ 6.1-370 through 6.1-374, 6.1-375, 6.1-377, 6.1-378, 6.1-378.2, 6.1-378.3, and 6.1-378.4 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 6.1-374.1, 6.1-374.2, and 6.1-378.5 through 6.1-378.8 as follows:

§ 6.1-370. Definitions.

As used in this chapter, *unless the context otherwise requires*:

"Authorized delegate" means a person designated or appointed by a licensee to sell money orders or provide money transmission services on behalf of the licensee.

"Commissioner" means the Commissioner of Financial Institutions.

"Licensee" means a person licensed under this chapter.

"Monetary value" means a medium of exchange, whether or not redeemable in money.

"Money order" means a check, traveler's check, draft, or other instrument for the transmission or payment of money or monetary value whether or not negotiable.

"Money transmission" means receiving money or monetary value for transmission by wire, facsimile, electronic means or other means or selling or issuing stored value.

"Money transmitter" or "licensee" means a person who is authorized pursuant to this chapter to engage in the business of selling money orders or the business of money transmission, or both.

"Outstanding" means:

1. With respect to a money order, a money order that has been issued and sold directly by a licensee, or sold by an authorized delegate of the licensee and reported to the licensee, that has not yet been paid by or on behalf of the licensee; or

2. With respect to a money transmission transaction, a money transmission transaction for which the licensee, directly or through an authorized delegate of the licensee, has received money or monetary value from a customer for transmission, but has not yet (i) completed the money transmission transaction by delivering the money or monetary value to the person designated by the customer, or (ii) refunded the money or monetary value to the customer.

"Person" means any individual, firm, corporation, partnership, association, trust, or legal or commercial entity or group of individuals however organized.

"Principal" means any person who, directly or indirectly, owns or controls a ten percent or greater interest in any form of business organization.

"Stored value" means monetary value that is evidenced by an electronic record.

§ 6.1-371. License required; exceptions.

No person, ~~firm, corporation or other entity~~ shall engage in the business of selling money orders or, ~~on or after January 1, 1995,~~ engage in the business of money transmission, whether or not the person, ~~firm, corporation or other entity~~ has a location in the Commonwealth, unless such person, ~~firm, corporation or other entity~~ obtains from the State Corporation Commission a license issued pursuant to this chapter. However, the provisions of this chapter shall not apply to: (i) the United States, or any department, instrumentality or agency thereof; (ii) the Commonwealth, or any political subdivision thereof; (iii) a bank, trust company, savings institution or credit union operating under the laws of the United States or any state or territory thereof, or other person, ~~firm, corporation or other entity~~ to the extent providing money transmission services ~~to or for~~ as an agent of one or more banks, trust companies, savings institutions or credit unions operating under the laws of the United States or any state or territory thereof; or (iv) a private security services business, licensed under § 9.1-139, that transports or offers to transport money.

This chapter shall be construed by the Commission for the purpose of protecting, against financial loss, citizens of the Commonwealth who purchase money orders or who give money or control of their funds or credit into the custody of another person for transmission, regardless of whether the transmitter has any office, facility, ~~agent~~ authorized delegate, or other physical presence in the Commonwealth.

§ 6.1-372. Application; financial statements; application fee; surety bond; alternative security device.

A. Applications for a license shall be made on forms furnished by the Commission and shall set forth the name and address of the applicant, *which shall be a corporation, limited liability company, or*

other legal or commercial entity, a description of the manner in which and the locations at which it proposes to do business, and such additional relevant information as the Commission requires. The application shall be accompanied by such audited financial statements as the Commission may require, a filing an application fee of \$500 \$1,000 and, except as provided in subsection B, a surety bond satisfactory to the Commission in the principal amount as determined by the Commission but not less than \$25,000 nor more than one \$1 million dollars, and conditioned as the Commission may require for the benefit of purchasers, payees, and holders of money orders sold by the licensee and its agents authorized delegates in this Commonwealth, and for the benefit of purchasers of money transmission services. If any material information provided to the Commission in an application changes during the investigation period, the applicant shall immediately notify the Commission. The application fee shall not be refundable in any event. The fee shall not be abated by the expiration, surrender, or revocation of the license.

B. As an alternative security device and in lieu of the surety bond required by subsection A, a license applicant may deposit with a financial institution designated by such applicant and approved by the Commission for that purpose, cash, 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 Commonwealth, or of a city, county, town or other political subdivision of this Commonwealth, in an aggregate amount, based upon the principal amount or market value, whichever is lower, of not less than the amounts required by the Commission pursuant to subsection A. Such cash or securities shall be deposited and held to secure obligations established in subsection A, but the licensee shall be entitled to (i) receive all interest and dividends thereon and (ii) substitute, with the Commission's prior approval, other securities for those deposited. The Commission may also direct the licensee, for good cause shown, to substitute other securities for those deposited.

C. The security device required by this section shall remain in place for five years after a licensee under this chapter ceases money order sales or money transmission activities within this Commonwealth. However, the Commission may permit the security device to be reduced or eliminated prior to that time to the extent the amount of such licensee's payment instruments money orders and money transmission transactions outstanding in this Commonwealth are reduced. The Commission may also permit any such licensee to substitute a letter of credit, or such other form of security device as may be acceptable to the Commission, for the security device in place at the time the applicant ceases money order sales or money transmission activities in this Commonwealth.

§ 6.1-373. Annual fees; expenses; annual reports; renewal.

If a license is denied, the filing fee shall not be refunded. If a license is issued, the filing fee shall constitute the license fee for the period ending on the following June 30. A. Each licensee shall pay to the Commission annually on or before July September 1 a license renewal fee of \$750 and shall file by each April 15 an annual report on a form prescribed by the Commission and containing such information as the Commission may prescribe, including audited financial statements. All fees shall be paid into the state treasury and credited to the "Financial Institutions Special Fund - State Corporation Commission."

B. In order to defray the costs of their examination and supervision, every licensee under this chapter shall pay an annual assessment calculated in accordance with a schedule set by the Commission. The schedule shall bear a reasonable relationship to the dollar volume of money orders sold and Virginia money transmission business conducted by licensees, either directly or through their authorized delegates, the costs of their examinations, and to other factors relating to their supervision and regulation. All such fees shall be assessed on or before August 1 for every calendar year. All such fees shall be paid by licensees to the State Treasurer on or before September 1 following each assessment.

C. In addition to the annual assessment prescribed in subsection B, when it becomes necessary to examine or investigate the books and records of a licensee at a location outside the Commonwealth, the licensee shall be liable for and shall pay to the Commission within 30 days of the presentation of an itemized statement, the actual travel and reasonable living expenses incurred on account of its examination and supervision, or shall pay a reasonable per diem rate approved by the Commission.

D. Each licensee under this chapter shall annually, on or before April 15, file a written report with the Commissioner along with such information as the Commissioner may require concerning the licensee's business, including audited financial statements. If a licensee is unable to furnish copies of its audited financial statements by April 15, the licensee may request an extension, which may be granted by the Commissioner for good cause shown.

E. Every license shall remain in force until it expires or has been surrendered or revoked. The expiration, surrender, or revocation of a license shall not affect any preexisting legal right or obligation of the licensee.

F. If a license has expired or has been surrendered or revoked, the former licensee shall immediately (i) cease selling money orders and engaging in the money transmission business, and (ii) instruct its authorized delegates to cease selling money orders and accepting funds for transmission on behalf of the licensee. The Commission may grant relief from this subsection for good cause shown.

G. A license issued under this chapter shall expire on September 30 of each year unless it is renewed by a licensee. A licensee may renew its license by complying with the following: (i) paying its license renewal fee in accordance with subsection A; (ii) paying its annual assessment in accordance with subsection B; (iii) filing its annual report and audited financial statements in accordance with subsection D; and (iv) maintaining the minimum net worth specified in subsection A of § 6.1-374, as evidenced by its audited financial statements. Upon receiving a licensee's renewal fee, annual assessment, and the documents and other information required by this section, the Commissioner shall renew such person's license. If a license has expired, the former licensee may seek reinstatement within three months after the license expiration date. Upon receiving a former licensee's renewal fee, annual assessment, and the documents and other information required by this section, together with payment of a reinstatement fee of \$1,000, the Commissioner shall reinstate such person's license.

§ 6.1-374. License required; conditions prerequisite to issuance; revocation for inability to meet obligations; reinstatement after revocation.

A. The Commission shall not issue a license unless it is of the opinion that the applicant will be able to and will perform its obligations to purchasers of money transmission services and purchasers, payees, and holders of money orders sold by it and its ~~agents~~ *authorized delegates* in this Commonwealth, and that the financial responsibility, character, reputation, experience, and general fitness of the applicant and its members, senior officers, directors, and ~~principal stockholders~~ *principals* are such as to warrant belief that the business will be operated efficiently and fairly, in the public interest, and in accordance with the law and regulations. Each licensee under this chapter shall at all times have a net worth of not less than ~~\$100,000~~ \$200,000, or a higher amount not to exceed ~~one~~ \$1 million ~~dollars~~ as determined by the Commission, calculated in accordance with generally accepted accounting principles. Any person who was licensed as a ~~money order seller~~ under this chapter on July 1, 2001, shall have three years from that date to comply with the minimum net worth requirement of this section, *during which period the licensee shall at all times have a net worth of not less than \$100,000, or a higher amount not to exceed \$1 million as determined by the Commission, calculated in accordance with generally accepted accounting principles.*

B. The Commissioner may make such investigations as he deems necessary to determine if the applicant has complied with all applicable provisions of law and regulations adopted thereunder.

† C. The Commission may revoke a license, ~~after hearing and not less than ten days' notice, if issued under this chapter:~~

1. If it reasonably determines that ~~the~~ (i) a licensee is engaging in one or more unsafe or unsound practices, (ii) a licensee may be unable to perform its obligations, or ~~that the~~ (iii) a licensee has willfully failed without reasonable cause to pay or provide for the payment of any of its obligations; ~~but shall reinstate the license if the licensee proves that it has performed all of its obligations; or~~

2. The Commission may also revoke a license, ~~after hearing and not less than ten days' notice, upon~~ Upon any of the following grounds:

- a. Any ground for denial of a license under this chapter;
- b. Any violation of the provisions of this chapter or regulations promulgated by the Commission pursuant thereto, or a violation of any other law or regulation applicable to the conduct of the licensee's business;
- c. Conviction of a felony or misdemeanor involving fraud, misrepresentation, or deceit;
- d. Entry of a judgment against such licensee involving fraud, misrepresentation, or deceit;
- e. Entry of a federal or state administrative order against such licensee for violation of any law or any regulation applicable to the conduct of his business;
- f. Refusal to permit an investigation or examination by the Commission;
- g. Failure to pay any fee or assessment imposed by this chapter; or
- h. Failure to comply with any order of the Commission.

§ 6.1-374.1. Notice of proposed revocation.

The Commission may not revoke a license issued under this chapter upon any of the grounds set forth in § 6.1-374 until it has given the licensee 21 days' notice in writing of the reasons for the proposed revocation and has given the licensee an opportunity to introduce evidence and be heard. The notice shall be sent by certified mail to the principal place of business of such licensee and shall state with particularity the grounds for the contemplated action. Within 14 days of mailing the notice, the person or persons named therein may file with the Clerk of the Commission a written request for a hearing. If a hearing is requested, the Commission shall not revoke the license except based upon findings made at such hearing.

§ 6.1-374.2. Cease and desist orders.

A. If the Commission determines that (i) any person has violated any provision of this chapter or any regulation adopted hereunder or (ii) a licensee is engaging in one or more unsafe or unsound practices, the Commission may, upon 21 days' notice in writing, order such person to cease and desist from such practices and to comply with the provisions of this chapter. The notice shall be sent by certified mail to the principal place of business of such person or other address authorized under § 12.1-19.1 and shall state the grounds for the contemplated action. Within 14 days of mailing the notice, the person or

persons named therein may file with the Clerk of the Commission a written request for a hearing. The Commission may enforce compliance with any such order issued under this section by imposition and collection of such fines and penalties as may be prescribed by law.

B. When, in the opinion of the Commission, immediate action is required to protect the public interest, a cease and desist order may be issued immediately without prior hearing. In such cases, the Commission shall make a hearing available to the person on an expedited basis.

C. If required to conserve the assets of a licensee or protect the public interest, the Commission may order a licensee and its authorized delegates to cease and desist from selling additional money orders or receiving additional funds for transmission.

D. The Commission shall have jurisdiction to enter and enforce a cease and desist order against any person, regardless of whether such person is present in the Commonwealth, who directly or indirectly (i) sells money orders to citizens of the Commonwealth or (ii) obtains money or control over such citizens' funds for transmission.

§ 6.1-375. Selling without license; examination of books by Commission; penalty.

A. Any person required by this chapter to have a license who sells money orders or engages in the business of money transmission without first being licensed shall be guilty of a Class 1 misdemeanor.

B. The Commission shall have authority to examine the books and records of all persons engaged in the sale of money orders or engaged in the business of money transmission, either directly or through ~~agents~~ *authorized delegates*, and shall report violations of this chapter § 6.1-371 to the attorney for the Commonwealth of the city or county in which such violation occurs. ~~The Except as provided herein, the Commission may shall make an examination of the books and records of each licensee as often as it is deemed to be in the public interest at least once in every three-year period, and shall adjust the surety bond or alternative security device as it may deem necessary in accordance with § 6.1-372 A. If the Commission determines, based on the licensee's financial statements and past history of operations in the Commonwealth that an examination is unnecessary, the examination may be waived by the The Commission may also examine the books and records of any authorized delegate of a licensee as often as it is deemed to be in the public interest. The examination~~ Examinations under this section may be conducted in conjunction with examinations to be performed by representatives of agencies of the federal government or another state ~~or states~~. The Commission, in lieu of an examination, may accept the examination report of an agency of the federal government or another state ~~or a report prepared by an independent accounting firm~~. Every licensee so examined shall pay all costs and expenses associated with such examination within thirty days of assessment. For the foregoing purposes, the person designated by the Commission to make such examinations shall have authority to administer oaths, examine under oath in the course of such examinations, the principals, officers, directors, partners, and employees of any person required to be licensed by this chapter ~~or such person's authorized delegates~~, and compel the production of documents.

§ 6.1-377. License not required of authorized delegates of licensee.

A. A licensee may conduct its business through or by means of such ~~agents~~ *authorized delegates* as the licensee may designate or appoint pursuant to a written agreement with such authorized delegates. No license under this chapter shall be required of any ~~agent~~ *authorized delegate* of a licensee; ~~or other person, firm, corporation or other entity selling money orders or money transmission services of a person licensed under this chapter. The agreement between a licensee and an authorized delegate shall~~ (i) require the authorized delegate to comply with the provisions of this chapter and all other applicable state and federal laws and regulations; (ii) require the authorized delegate to remit all sums owing to the licensee in accordance with the terms of the written agreement; (iii) require the authorized delegate to permit the Commission to investigate or examine its business pursuant to § 6.1-375; and (iv) prohibit the authorized delegate from using a subdelegate, or from otherwise designating or appointing another person to sell money orders or engage in money transmission business on behalf of the licensee.

B. A licensee shall conduct a due diligence review of all new authorized delegates. A licensee shall be responsible for implementing and maintaining a reasonable risk-based supervision program to monitor its authorized delegates.

§ 6.1-378. Liability of licensee; negotiable instruments law applicable; money order to bear name of licensee.

A licensee shall be liable for the payment of *all funds collected for transmission by the licensee or its authorized delegates* and all money orders which it sells, in whatever form and whether directly or through an ~~agent~~ *authorized delegate*, as the maker or drawer thereof according to the negotiable instrument laws of this Commonwealth; ~~and a. A licensee who sells a money order, whether directly or through an agent authorized delegate, upon which he is not designated as maker or drawer shall nevertheless have the same liabilities with respect thereto as if he had signed same as the maker or drawer thereof. Every money order sold by a licensee, whether directly or through an agent authorized delegate, shall bear the name of the licensee clearly imprinted thereon as it appears on its license.~~

§ 6.1-378.2. Acquisition of control; application.

A. Except as provided in this section, no person shall acquire directly or indirectly ~~twenty-five~~ 25 percent or more of the voting shares of a corporation or ~~twenty-five~~ 25 percent or more of the

ownership of any other entity licensed to conduct business under this chapter unless such person first:

1. Files an application with the Commission in such form as the Commission may prescribe from time to time;

2. Delivers such information as the Commission may require concerning the financial responsibility, background, experience, and activities of the applicant, its directors, senior officers, principals and members, and of any proposed new directors, senior officers, principals or members of the licensee; and

3. Pays such application fee as the Commission may prescribe.

B. If any material information provided to the Commission in an application changes during the investigation period, the applicant shall immediately notify the Commission.

C. Upon the filing and investigation of an application, the Commission shall permit the applicant to acquire the interest in the licensee if it finds that the applicant, its members if applicable, its directors, senior officers and principals, and any proposed new directors, members, senior officers and principals have the financial responsibility, character, reputation, experience, and general fitness to warrant belief that the business will be operated efficiently and fairly, in the public interest, and in accordance with the law. The Commission shall grant or deny the application within ~~sixty~~ 90 days from the date a completed application accompanied by the required fee is filed unless the period is extended by the Commission. If the application is denied, the Commission shall notify the applicant of the denial and the reasons for the denial.

€ D. The provisions of this section shall not apply to the acquisition of an interest in a licensee directly or indirectly by merger, consolidation, or otherwise, (i) by or with a person licensed under this chapter, (ii) by or with a person affiliated through common ownership with the licensee, or (iii) by bequest, descent, survivorship or by operation of law. The person acquiring an interest in a licensee in a transaction which is exempt from filing an application by this subsection shall send written notice to the Commission of such acquisition within ~~thirty~~ 30 days after its closing.

E. If any person acquires an ownership interest in a licensee without obtaining prior approval from the Commission as required by this section, the Commission may for good cause shown order such person to divest himself or itself of such ownership interest.

F. The Commission may not enter an order requiring divestiture pursuant to subsection E until it has given the person 21 days' notice in writing of the reasons for the proposed divestiture and has given the person an opportunity to introduce evidence and be heard. The notice shall be sent by certified mail to such person and shall state with particularity the grounds for the contemplated action. Within 14 days of mailing the notice, the person named therein may file with the Clerk of the Commission a written request for a hearing. If a hearing is requested, the Commission shall not require divestiture except based upon findings made at such hearing.

§ 6.1-378.3. Sale or issuance of bearer money orders; prohibition.

A. No ~~agent~~ authorized delegate of a licensee shall sell a money order with a face amount of \$750 or more that does not designate a specific payee.

B. This section applies only to paper money orders and does not apply to travelers checks, electronic instruments, stored value products or other similar instruments for the transmission or payment of money.

C. This provision shall not apply to money orders sold or issued by insured financial institutions.

D. Licensees shall inform their ~~agents~~ authorized delegates of the obligations imposed by this section.

§ 6.1-378.4. Civil penalties.

In addition to the authority conferred under §§ 6.1-374 and 6.1-374.2, the Commission may impose a penalty not exceeding ~~\$1,000~~ \$2,500 upon any person licensed or required to be licensed under this chapter who the Commission determines, ~~in proceedings commenced under its Rules of Practice and Procedure,~~ has violated any of the provisions of this chapter or ~~rules promulgated hereunder~~ any other law or regulation applicable to the conduct of the person's business. For the purposes of this section, each separate violation shall be subject to the fine or penalty herein prescribed, and in the case of a violation of § 6.1-371, each money order sale or money transmission transaction shall constitute a separate violation.

§ 6.1-378.5. Retention of books, accounts, and records.

A. Every licensee shall maintain in its licensed offices such books, accounts and records as the Commission may reasonably require in order to determine whether such licensee is complying with the provisions of this chapter and other laws applicable to the conduct of its licensed business. Such books, accounts and records shall be maintained apart and separate from any other business in which the licensee is involved.

B. Each licensee shall retain the following records for at least three years:

1. A record of each money transmission transaction and money order sold;
2. A general ledger posted at least monthly containing all asset, liability, capital, income, and expense accounts;
3. Bank statements and bank reconciliation records;
4. Records of outstanding money orders and money transmission transactions;

5. Records of each money order and money transmission transaction paid or completed within the three-year period; and

6. A list of the names, addresses, and telephone numbers of all of the licensee's authorized delegates.

C. Each licensee shall maintain policies and procedures sufficient for it to comply with this chapter and all other laws and regulations applicable to the conduct of its licensed business. A licensee shall furnish copies of its policies and procedures, as amended, to all of its authorized delegates.

§ 6.1-378.6. Other reporting requirements.

A. A licensee or other person shall file a report with the Commission within 15 days after the licensee or other person becomes aware of any material changes in information previously provided in an application filed under § 6.1-372 or 6.1-378.2. This requirement shall be applicable only to material changes that occur within one year after the date the licensee begins business or the acquisition is consummated.

B. A licensee shall file with the Commission no later than 45 days after the end of each fiscal quarter its quarterly financial statements along with a current list of all authorized delegates and locations in the Commonwealth where the licensee or an authorized delegate of the licensee sells money orders or receives money for transmission. The licensee shall state the name, street address, and telephone number of each location and authorized delegate.

C. A licensee shall file a report with the Commission within one business day after the licensee becomes aware of the occurrence of any of the following events:

1. The filing of a petition by or against the licensee for bankruptcy or reorganization;

2. The filing of a petition by or against the licensee for receivership, the commencement of any other judicial or administrative proceeding for its dissolution or reorganization, or the making of a general assignment for the benefit of its creditors;

3. The commencement of administrative or regulatory proceedings against the licensee by any governmental authority;

4. The cancellation or other impairment of the licensee's bond or other security;

5. Any felony indictment of the licensee or any of its members, partners, directors, officers, principals, or authorized delegates;

6. Any felony conviction of the licensee or any of its members, partners, directors, officers, principals, or authorized delegates; or

7. Such other events as the Commission may prescribe by regulation.

D. A licensee shall within 10 days notify the Commissioner, in writing, of the name, address and position of each new member, senior officer, partner, or director and provide such other information with respect to any such change as the Commissioner may reasonably require.

§ 6.1-378.7. Maintenance of permissible investments.

A. A licensee shall maintain at all times permissible investments that have a market value computed in accordance with generally accepted accounting principles of not less than the aggregate dollar amount of all of its (i) outstanding money orders from all states, and (ii) outstanding money transmission transactions from all states.

B. The Commission, with respect to any licensees, may limit the extent to which a type of investment within a class of permissible investments may be considered a permissible investment, except for money and certificates of deposit issued by a bank. The Commission may prescribe by regulation other types of investments that the Commission determines to have a safety substantially equivalent to other permissible investments.

C. Permissible investments shall be held in trust for the benefit of the purchasers and holders of the licensee's outstanding money orders and money transmission services in the event of bankruptcy or receivership of the licensee.

§ 6.1-378.8. Types of permissible investments.

A. Except to the extent otherwise limited by the Commission pursuant to § 6.1-378.7, the following investments are permissible under § 6.1-378.7:

1. Cash, a certificate of deposit, or senior debt obligation of an insured depository institution, as defined in section 3 of the Federal Deposit Insurance Act, 12 U.S.C. § 1813.

2. A banker's acceptance or bill of exchange that is eligible for purchase upon endorsement by a member bank of the Federal Reserve System and is eligible for purchase by a Federal Reserve Bank.

3. An investment bearing a rating of one of the three highest grades, as defined by a nationally recognized organization that rates securities.

4. An investment security that is an obligation of the United States or a department, agency, or instrumentality thereof; an investment in an obligation that is guaranteed fully as to principal and interest by the United States; or an investment in an obligation of a state or a governmental subdivision, agency, or instrumentality thereof.

5. Receivables that are payable to a licensee from its authorized delegates, in the ordinary course of business, pursuant to contracts which are not past due or doubtful of collection if the licensee does not hold at one time receivables under this paragraph from any one person aggregating more than 10 percent of the licensee's total permissible investments. 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 but in no event more than seven business days.

6. A share or a certificate issued by an open-end management investment company that is registered with the U.S. Securities and Exchange Commission under the Investment Companies Act of 1940, 15 U.S.C. § 80a-1 et seq., and whose portfolio is restricted by the management company's investment policy to investments specified in subdivisions 1 through 4 of this subsection.

B. The following investments are permissible under § 6.1-378.7, but only to the extent specified:

1. An interest-bearing bill, note, bond, or debenture of a person whose equity shares are traded on a national securities exchange or on a national over-the-counter market, if the aggregate of investments under this subdivision does not exceed 20 percent of the total permissible investments of a licensee and the licensee does not at one time hold investments under this subdivision in any one person aggregating more than 10 percent of the licensee's total permissible investments.

2. A share of a person traded on a national securities exchange or a national over-the-counter market or a share or a certificate issued by an open-end management investment company that is registered with the U.S. Securities and Exchange Commission under the Investment Companies Act of 1940, 15 U.S.C. § 80a-1 et seq., and whose portfolio is restricted by the management company's investment policy to shares of a person traded on a national securities exchange or a national over-the-counter market, if the aggregate of investments under this paragraph does not exceed 20 percent of the total permissible investments of a licensee and the licensee does not at one time hold investments in any one person aggregating more than 10 percent of the licensee's total permissible investments.

3. A demand-borrowing agreement made to a corporation or a subsidiary of a corporation whose securities are traded on a national securities exchange if the aggregate of the amount of principal and interest outstanding under demand-borrowing agreements under this paragraph does not exceed 20 percent of the total permissible investments of a licensee and the licensee does not at one time hold principal and interest outstanding under demand-borrowing agreements under this paragraph with any one person aggregating more than 10 percent of the licensee's total permissible investments.

4. Any other investment the Commission designates, to the extent specified by the Commission.

C. The aggregate of investments under subsection B may not exceed 50 percent of the total permissible investments of a licensee calculated in accordance with § 6.1-378.7.