

VIRGINIA ACTS OF ASSEMBLY -- 2019 SESSION

CHAPTER 634

An Act to amend and reenact §§ 6.2-1900, 6.2-1901, 6.2-1904.1, 6.2-1905, 6.2-1914, and 6.2-1917 of the Code of Virginia, relating to the licensure of money order sellers and money transmitters.

[H 2690]

Approved March 19, 2019

Be it enacted by the General Assembly of Virginia:

1. That §§ 6.2-1900, 6.2-1901, 6.2-1904.1, 6.2-1905, 6.2-1914, and 6.2-1917 of the Code of Virginia are amended and reenacted as follows:

§ 6.2-1900. Definitions.

As used in this chapter, unless the context requires a different meaning:

"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.

"Licensee" means a person licensed under this chapter to engage in the business of selling money orders or the business of money transmission, or both.

"Member" means a person who owns or controls a ~~five~~ 10 percent or greater interest in a limited liability company.

"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 order seller" means a person engaged in the business of selling money orders.

"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" means a person engaged in the business of money transmission.

"Nationwide Multistate Licensing System and Registry" or "Registry" means the licensing and registration system operated by the State Regulatory Registry LLC.

"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.

"Principal" means any person who, directly or indirectly, owns or controls a 10 percent or greater interest in any form of entity.

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

§ 6.2-1901. License required; exception.

A. No person shall engage in the business of selling money orders or engage in the business of money transmission, whether or not the person has a location in the Commonwealth, unless the person obtains from the Commission a license issued pursuant to this chapter.

B. No license under this chapter shall be required of any authorized delegate of a licensee.

C. *Every person required to be licensed under this chapter shall register with the Registry and be subject to such registration and renewal requirements as may be established by the Registry, in addition to any requirements of this chapter. In adopting regulations pursuant to § 6.2-1913, the Commission shall include any terms, conditions, or requirements applicable to such registration and renewal. Any fees required by the Registry shall be separate and apart from any fees imposed by this chapter. The Commission, at its discretion, may collect any registration and renewal fees on behalf of the Registry and remit such fees to the Registry or permit the Registry to collect any fees imposed by this chapter and remit such fees to the Commission.*

D. *In connection with its implementation and administration of this chapter, the Commission may establish agreements or contracts with the Registry or other entities designated by the Registry to collect, distribute, and maintain information and records and process fees related to persons required to be licensed under this chapter. In establishing such agreements or contracts, the Commission shall not be subject to the Virginia Public Procurement Act (§ 2.2-4300 et seq.).*

§ 6.2-1904.1. Investigation of applications.

A. 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.

B. For the purpose of investigating individuals who are members, senior officers, directors, and principals of an applicant, such individuals shall comply with one or both of the following, as applicable:

1. In the case of members, senior officers, directors, and principals who have resided in the United States at any time within the previous 10 years, such individuals shall consent to a national and state criminal history records check and submit to fingerprinting. Each member, senior officer, director, and principal shall pay for the cost of such fingerprinting and criminal records check. Such individuals shall cause their fingerprints, personal descriptive information, and records check fees to be submitted to *either of the following, as prescribed by the Commissioner; who:*

a. The Bureau, which shall forward these items to the Central Criminal Records Exchange. The Central Criminal Records Exchange shall (i) conduct a search of its own criminal history records and forward such individuals' fingerprints and personal descriptive information to the Federal Bureau of Investigation for the purpose of obtaining national criminal history record information regarding such individuals and (ii) forward the results of the state and national records search to the Commissioner or his designee, who shall be an employee of the Commission; or

b. The Registry, provided that it is capable of processing such criminal history records check.

2. In the case of members, senior officers, directors, and principals who have resided outside of the United States at any time within the previous 10 years, such individuals shall cause an investigative background report to be submitted to the Commissioner. The report shall be prepared by an independent search firm that is acceptable to the Commissioner and be in the English language. Each member, senior officer, director, and principal shall pay for the cost of such report, and the report shall be sent directly by the search firm to the Commissioner or his designee, who shall be an employee of the Commission.

C. If any member, senior officer, director, or principal of an applicant fails to cause his fingerprints, personal descriptive information, records check fees, or investigative background report to be submitted in accordance with subsection B, the application for licensure shall be denied.

§ 6.2-1905. Annual fees; expenses; annual reports; renewal.

A. Each licensee shall pay to the Commission annually on or before ~~September 1~~ *December 31* a license renewal fee of \$750. All fees paid pursuant to this chapter 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 affairs, business, premises, books, or records of a licensee or any of its authorized delegates 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 or investigation, 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 *periodic* written ~~report~~ *reports* with the Commissioner ~~along with or the Registry containing~~ such information as the Commissioner may require concerning the licensee's business and operations, including audited financial statements. *Reports shall be in the form and be submitted with such frequency and by such dates as may be prescribed by the Commissioner.* If a licensee is unable to furnish copies of its audited financial statements by ~~April 15~~ *the dates prescribed by the Commissioner*, the licensee may request an extension, which may be granted by the Commissioner for good cause shown.

E. 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.

F. A license issued under this chapter shall expire on ~~September 30~~ *December 31* of each year unless it is renewed by a licensee *prior to the expiration date*. A licensee may renew its license by ~~complying with the following:~~ (i) *requesting renewal through the Registry;* (ii) *complying with any requirements associated with such renewal request that are imposed by the Registry;* (iii) ~~paying its~~ *the* license renewal fee ~~in accordance with prescribed in~~ subsection A; ~~(iii)~~ (iv) ~~paying its~~ *the* annual assessment ~~in accordance with prescribed in~~ subsection B; ~~(iii)~~ (v) ~~filing its annual report~~ *the periodic written reports* and audited financial statements ~~in accordance with prescribed in~~ subsection D; and ~~(iv)~~ (vi) maintaining the minimum net worth specified in subsection B of § 6.2-1906, 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~~ *If the Commissioner finds that the licensee has satisfied these requirements*, 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 on or before the last day of February of the following calendar year.~~ Upon receiving a former licensee's renewal fee, annual assessment, and the documents and other information required by this section, together with finding that the former licensee has complied with the renewal requirements set forth in this subsection and remitted payment of a reinstatement fee of \$1,000, the Commissioner shall reinstate such person's license.

§ 6.2-1914. Acquisition of control; application.

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

3. Furnishes to the Commissioner information concerning the identity of the directors, senior officers, principals, and members of the applicant, and of any proposed new directors, senior officers, principals, or members of the licensee. For the purpose of investigating these directors, senior officers, principals, and members, such individuals shall comply with one or both of the following, as applicable:

a. In the case of directors, senior officers, principals, and members who have resided in the United States at any time within the previous 10 years, such individuals shall consent to a national and state criminal history records check and submit to fingerprinting. Each director, senior officer, principal, and member shall pay for the cost of such fingerprinting and criminal records check. Such individuals shall cause their fingerprints, personal descriptive information, and records check fees to be submitted to *either of the following, as prescribed by the Commissioner, who:*

(1) *The Bureau, which shall forward these items to the Central Criminal Records Exchange. The Central Criminal Records Exchange shall (i) conduct a search of its own criminal history records and forward such individuals' fingerprints and personal descriptive information to the Federal Bureau of Investigation for the purpose of obtaining national criminal history record information regarding such individuals, and (ii) forward the results of the state and national records search to the Commissioner or his designee, who shall be an employee of the Commission; or*

(2) *The Registry, provided that it is capable of processing such criminal history records check.*

b. In the case of directors, senior officers, principals, and members who have resided outside of the United States at any time within the previous 10 years, such individuals shall cause an investigative background report to be submitted to the Commissioner. The report shall be prepared by an independent search firm that is acceptable to the Commissioner and be in the English language. Each director, senior officer, principal, and member shall pay for the cost of such report, and the report shall be sent directly by the search firm to the Commissioner or his designee, who shall be an employee of the Commission; and

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

B. If any material information provided by the applicant changes during the investigation period, the applicant shall immediately notify the Commissioner.

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 applicable laws and regulations. The Commission shall grant or deny the application within 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 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.

§ 6.2-1917. Other reporting requirements.

A. A licensee or other person shall file a report with the Commissioner within 15 days after the licensee or other person becomes aware of any material changes in information previously provided in an application filed under § 6.2-1903 or 6.2-1914. 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 Commissioner 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 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 Commissioner 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. Any reports or filings required by this section may be submitted to the Commissioner through the Registry, provided that the Registry is capable of receiving such reports or filings.