

# VIRGINIA ACTS OF ASSEMBLY -- 1994 SESSION

## CHAPTER 889

*An Act to amend and reenact §§ 6.1-370, 6.1-371, 6.1-372, 6.1-373, 6.1-374, 6.1-375, 6.1-377, and 6.1-378.1 of the Code of Virginia; and to repeal § 6.1-376 of the Code of Virginia, relating to money order sales; licensure of money transmitters; penalty.*

[H 396]

Approved April 20, 1994

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 6.1-370, 6.1-371, 6.1-372, 6.1-373, 6.1-374, 6.1-375, 6.1-377, and 6.1-378.1 of the Code of Virginia are amended and reenacted as follows:**

§ 6.1-370. Definitions.

As used in this chapter:

"Money order" means a check, traveler's check, draft, or other instrument for the transmission or payment of money;

"Money transmission" means receiving money from a person for transmission by wire, facsimile, electronic means or other means.

"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.

§ 6.1-371. License required; exceptions.

No person except a bank, trust company, building and loan association, savings and loan association, or credit union authorized to do business in this Commonwealth shall engage in the business of selling money orders or, on or after January 1, 1995, engage in the business of money transmission, for a fee or other consideration, unless it such person obtains from the State Corporation Commission a license to engage in such business 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) this Commonwealth, or any political subdivision thereof; (iii) a bank, trust company, savings institution or credit union authorized to do business in this Commonwealth; (iv) a telegraph company subject to regulation by the Commission the net worth of which company is at least one million dollars; (v) a private security services business, licensed under § 9-183.3, that transports or offers to transport money; or (vi) any person who receives money for transmission as an incident to the conduct of another business.

Any person who was licensed as a money order seller under this chapter on January 1, 1994, shall be issued a license as a money transmitter without the necessity of an additional application and fee. However, if such a licensee is to engage in the business of money transmission after January 1, 1995, the Commission may require the licensee to obtain expanded bond coverage for the protection of purchasers of money transmission services the United States government.

§ 6.1-372. Same; application; balance sheet required; filing fee; surety bond.

Applications for a license shall be made on forms furnished by the Commission and shall set forth the name and address of the applicant, 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 financial statements as the Commission may require, a filing fee of \$500 and a surety bond satisfactory to the Commission in the principal amount as determined by the Commission but not less than \$25,000, 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 in this Commonwealth, and for the benefit of purchasers of money transmission services. In the case of an applicant who proposes to sell money orders in its own name at no more than two locations, the filing fee shall be \$100, and the minimum bond amount shall be \$5,000 for each location.

§ 6.1-373. Same; annual fee; 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. Each licensee shall pay to the Commission annually on or before July 1 a license fee of \$250 and shall file a statement setting forth the location or the locations at which its money orders are sold by each April 15 an annual report on a form prescribed by the Commission. All fees shall be paid into the state treasury and credited to the "Banking Fund - State Corporation Commission." In the case of a licensee authorized to sell money orders at no more than two locations, the annual license fee shall be \$100.

§ 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 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 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.

B. 1. The Commission may revoke a license, after hearing and not less than ten days' notice, if it reasonably determines that the licensee may be unable to perform its obligations, or that the 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.

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

- 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.

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

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 3* misdemeanor. ~~Any person who, as an officer, director, partner, or agent, knowingly assists such unlicensed person to sell money orders shall be guilty of a misdemeanor.~~ 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 and shall report violations of this chapter to the attorney for the Commonwealth of the city or county in which such violation occurs. The Commission shall make an examination of the books and records of each licensee as often as it is deemed to be in the public interest, and shall adjust the surety bond as it may deem necessary. Every licensee so examined shall pay all costs and expenses associated with such examination.

§ 6.1-377. Conduct of business at more than one location; license not required of agents of licensee.

A licensee may conduct its business at one or more locations within this Commonwealth and through or by means of such agents as the licensee may from time to time designate or appoint. No license under this chapter shall be required of any agent of a licensee, or other person, firm, corporation or other entity selling money orders *or money transmission services* of a ~~licensee~~ *person* licensed under this chapter.

§ 6.1-378.1. Rules and regulations.

The Commission may promulgate such rules and regulations as it deems appropriate to effect the purposes of this chapter. Before promulgating any such regulation, the Commission shall give reasonable notice of its content and shall afford interested parties an opportunity to ~~present evidence and~~ be heard, in accordance with the Rules of Practice and Procedure of the Commission.

**2. That § 6.1-376 of the Code of Virginia is repealed.**