

AN ACT

1 Amending the act of September 2, 1965 (P.L.490, No.249),
 2 entitled "An act providing for the licensing and regulation
 3 of the business of transmitting money or credit for a fee or
 4 other consideration by the issuance of money orders, by the
 5 sale of checks or by other methods; conferring powers and
 6 duties upon the Department of Banking and Securities; and
 7 imposing penalties," further providing for title of act and
 8 for definitions; providing for short title; and further
 9 providing for license required, for qualifications for a
 10 license, for fee, financial statement and security, for
 11 liability of licensees, for licensee requirements and for
 12 agents.

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

15 Section 1. The title of the act of September 2, 1965
 16 (P.L.490, No.249), referred to as the Money Transmission
 17 Business Licensing Law, is amended to read:

AN ACT

19 Providing for the licensing and regulation of the business of
 20 transmitting money, virtual currency or credit for a fee or
 21 other consideration by the issuance of money orders, by the
 22 sale of checks or by other methods; conferring powers and

1 duties upon the Department of Banking and Securities; and
2 imposing penalties.

3 Section 2. The definitions of "agent" and "transmittal
4 instrument" in section 1 of the act are amended and the section
5 is amended by adding a definition to read:

6 Section 1. Definitions.--Unless the context clearly
7 indicates otherwise, the following words when used in this act
8 shall have the following meanings:

9 "Agent" means any person that provides money transmission or
10 virtual currency transmission services on behalf of another
11 person.

12 * * *

13 "Transmittal instrument" means any check, draft, money order,
14 personal money order, debit card, stored value card, electronic
15 transfer or other method for the payment of money or virtual
16 currency or transmittal of credit or virtual currency, other
17 than a merchandise gift certificate or instrument with a similar
18 purpose sold in the regular course of business by a vendor of
19 personal property or services in a closed loop system or hybrid
20 closed loop system.

21 "Virtual currency" means as follows:

22 (1) The term includes a digital representation of value
23 that:

24 (i) Is used as a medium of exchange, unit of account or
25 store of value.

26 (ii) Is not money, unless the virtual currency was adopted
27 or authorized by a domestic or international government as a
28 medium of exchange, whether denominated in cash and;

29 (2) The term does not include:

1 (i) A transaction in which a merchant grants, as part of an
2 affinity or rewards program, value that cannot be taken from or
3 exchanged with the merchant for money, bank credit or virtual
4 currency.

5 (ii) A digital representation of value issued by or on
6 behalf of a publisher and used solely within an online game,
7 game platform or family of games sold by the same publisher or
8 offered on the same game platform.

9 Section 3. The act is amended by adding a section to read:

10 Section 1.1. Short Title.--This act shall be known and may
11 be cited as the Money Transmission and Virtual Currency
12 Transmission Business Licensing Law.

13 Section 4. Sections 2, 3, 4(a)(1) and (c)(5) introductory
14 paragraph, 6 heading and (a)(2) and (3) and (b.1), 11(a),
15 11.1(2), (3) and (4) and 12(b) and (c)(2), (3) and (6) of the
16 act are amended to read:

17 Section 2. License Required.--(a) No person shall [engage]:

18 (1) Engage in the business of transmitting money by means of
19 a transmittal instrument for a fee or other consideration with
20 or on behalf of an individual without first having obtained a
21 money transmission license from the department.

22 (2) Engage in the business of transmitting virtual currency
23 by means of a transmittal instrument for a fee or other
24 consideration with or on behalf of an individual without first
25 having obtained a virtual currency transmission license from the
26 department.

27 (b) This act does not apply to money transmission or virtual
28 currency transmission between business entities in connection
29 with commercial contracts, unless the contracts involve money

1 transmission or virtual currency transmission for personal or
2 household purposes involving individuals.

3 Section 3. Exemptions.--No license shall be required for any
4 of the following:

5 (1) Banks, bank and trust companies, credit unions, savings
6 banks and trust companies [private banks]organized under the
7 laws of this Commonwealth; similar banking institutions
8 organized under the laws of the United States or of any other
9 state [which are insured by the Federal Deposit Insurance
10 Corporation]; similar credit unions organized under the laws of
11 the United States or another state, [and insured by the National
12 Credit Union Share Insurance Fund]; and savings and loan
13 associations and building and loan associations organized under
14 the laws of another state or of the United States; or their
15 affiliates or agents.

16 Section 4. Qualifications for a License.--(a) To qualify
17 for a license an applicant shall:

18 (1) have a tangible net worth of at least five hundred
19 thousand dollars (\$500,000) as determined by audited financials
20 prepared in accordance with United States generally accepted
21 accounting principles; and

22 * * *

23 (c) The department may deny a license or otherwise restrict
24 a license if it finds that the applicant, or a director,
25 officer, partner, employee, agent or ultimate equitable owner of
26 ten percent or more of the applicant:

27 * * *

28 (5) does not possess the financial responsibility,
29 character, reputation, integrity and general fitness to command

1 confidence of the public to warrant the belief that the money
2 transmission or virtual currency transmission business will be
3 operated lawfully, honestly, fairly and within the legislative
4 intent of this act and in accordance with the general laws of
5 this Commonwealth. For purposes of this clause, an applicant is
6 not financially responsible if the applicant has shown a
7 disregard in the management of the applicant's own financial
8 condition. The factors that the department may consider in
9 making a determination regarding an applicant's financial
10 responsibility shall include:

11 * * *

12 Section 6. Fee, Financial Statement and Security Bond.--(a)
13 Each application for a license shall be accompanied by:

14 * * *

15 (2) a financial statement showing a tangible net worth of at
16 least five hundred thousand dollars (\$500,000) as determined by
17 audited financials prepared in accordance with United States
18 generally accepted accounting principles;

19 (3) a bond in the penal sum of one million dollars
20 (\$1,000,000) executed by a surety company authorized to transact
21 business within the Commonwealth of Pennsylvania [or securities
22 as provided in the following subsection]. The bond shall run to
23 the Commonwealth of Pennsylvania and shall be for the use of the
24 Commonwealth and of any person or persons who may have a cause
25 of action against the licensee for failure to carry out the
26 terms of any transmittal instrument which the licensee shall
27 have issued and who were residents of the Commonwealth of
28 Pennsylvania at the time the cause of action arose. The
29 condition of the bond shall be that the licensee will comply

1 with and abide by the provisions of this act and the rules and
2 regulations of the department lawfully promulgated under this
3 act and that the licensee will pay to the Commonwealth, to the
4 department or to any other person any moneys that may become due
5 from the licensee to the Commonwealth or to the department or to
6 any other person under the provisions of this act or of any
7 transmittal instrument issued by the licensee within this
8 Commonwealth and who were residents of the Commonwealth of
9 Pennsylvania at the time the cause of action arose. If any
10 person shall be aggrieved by the misconduct of any licensee, he
11 may upon recovering judgment against such licensee, issue
12 execution under such judgment and maintain an action upon the
13 bond of the licensee in any court having jurisdiction of the
14 amount claimed, provided the department assents thereto.

15 (b.1) If the department, in its discretion, shall determine
16 the bond [or deposit of securities] provided for in clause (3)
17 of subsection (a) is not adequate, the department may, after an
18 examination and a consent agreement or order, require an
19 additional bond in an amount up to the average daily outstanding
20 balance of money received for transmission in this Commonwealth
21 during the thirty days preceding the department's requirement
22 plus an additional ten percent of the amount of the average
23 daily outstanding balance subject to the same conditions and the
24 same right of execution provided for in clause (3) of subsection
25 (a).

26 * * *

27 Section 11. Liability of Licensees.--(a) Every licensee
28 shall be liable for the payment of all moneys or virtual
29 currency covered by transmittal instruments which he issues in

1 this Commonwealth whether directly or through an agent and
2 whether as a maker or a drawer.

3 * * *

4 Section 11.1. Licensee Requirements.--A licensee shall:

5 * * *

6 (2) Comply with all applicable Federal or State laws and
7 rules pertaining to the business of money transmission[.] or
8 virtual currency transmission, including 12 U.S.C. Ch. 21
9 (relating to financial recordkeeping) and 31 U.S.C. Ch. 53
10 (relating to monetary transactions).

11 (3) Register all of its agents who engage in the business of
12 money transmission or virtual currency transmission involving
13 individuals who are located in this Commonwealth.

14 (4) On a date determined by the department, file a report
15 setting forth such information as the department shall require
16 concerning the money transmission or virtual currency
17 transmission business conducted by the licensee. Licensees who
18 fail to file the required report by the date required by the
19 department may be subject to a penalty of one hundred dollars
20 (\$100) for each day after the due date until the report is
21 filed.

22 * * *

23 Section 12. Agents.--* * *

24 (b) An agent engaged in the business of money transmission
25 or virtual currency transmission under subsection (a) or subject
26 to an exemption under section 3 shall be appointed pursuant to a
27 written agreement between the agent and the person on whose
28 behalf the agent is acting.

29 (c) The written agreement shall contain at least the

1 following provisions:

2 * * *

3 (2) The agent is acting on behalf of the person employing
4 the agent's service for the transmission of money or virtual
5 currency.

6 (3) The agent is subject to the control of the person on
7 whose behalf the agent is acting, meaning that the licensee or
8 exempted person takes complete financial responsibility for the
9 money or virtual currency being transmitted from the moment an
10 individual initiates the transmission of money or virtual
11 currency until the intended recipient receives the transmitted
12 money or virtual currency.

13 * * *

14 (6) The agent may not provide money transmission or virtual
15 currency transmission outside the scope of activity permissible
16 under the written agreement between the agent and the person on
17 whose behalf the agent is acting except to the extent that the
18 agent is licensed itself or operating as an agent for another
19 person.

20 * * *

21 Section 5. This act shall take effect in 60 days.