

HOUSE BILL 855

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01r0078

By: **Chair, Economic Matters Committee (By Request – Departmental – Labor)**

Introduced and read first time: February 3, 2020

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Financial Institutions – Commissioner of Financial Regulation – Money**
3 **Transmissions**

4 FOR the purpose of establishing licensing requirements for certain money transmission
5 locations; requiring an applicant for a license to engage in the business of money
6 transmission to provide the address of each self-service financial kiosk in a certain
7 application and information that satisfies the Commissioner of Financial Regulation
8 that the applicant has created certain policies and procedures; specifying the
9 licensing fee that an applicant for a branch location license is required to pay;
10 requiring an applicant for a self-service financial kiosk license to submit a certain
11 application and pay certain fees; requiring certain licensees to include a notice in
12 certain mobile applications and on certain kiosks; altering the application of a
13 provision of law requiring a certain licensee to apply for a new license; repealing
14 certain provisions of law requiring certain licensees to file certain reports with the
15 Commissioner; requiring certain licensees to submit to the Nationwide Mortgage
16 Licensing System and Registry (NMLS) certain reports required by NMLS; altering
17 the period in which authorized delegates must remit funds under certain
18 circumstances; requiring a certain licensee to maintain in a record policies and
19 procedures for certain compliance programs; providing that licensees submit
20 reporting required by and through NMLS; repealing certain obsolete provisions of
21 law; defining certain terms; altering and repealing certain definitions; making
22 stylistic and conforming changes; and generally relating to money transmission.

23 BY repealing
24 Article – Financial Institutions
25 Section 12-401(o) and (r)
26 Annotated Code of Maryland
27 (2011 Replacement Volume and 2019 Supplement)

28 BY renumbering
29 Article – Financial Institutions

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Section 12–401(h) through (m), (n), (p), (q), (s), and (t), respectively
to be Section 12–401(i) through (n), (p), (q), (r), (u), and (v), respectively
Annotated Code of Maryland
(2011 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, without amendments,
Article – Financial Institutions
Section 12–401(a) and 12–407(g)
Annotated Code of Maryland
(2011 Replacement Volume and 2019 Supplement)

BY adding to
Article – Financial Institutions
Section 12–401(h), (o), (s), and (t)
Annotated Code of Maryland
(2011 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, with amendments,
Article – Financial Institutions
Section 12–401(n), (p), and (v)
Annotated Code of Maryland
(2011 Replacement Volume and 2019 Supplement)
(As enacted by Section 2 of this Act)

BY repealing and reenacting, with amendments,
Article – Financial Institutions
Section 12–404, 12–405, 12–407(b), (f), and (h), 12–410(e)(3), 12–411(a) and (c),
12–412(d), 12–413(a), 12–414(d), 12–415(c), 12–416, 12–418, 12–422(a),
12–425, 12–427, and 12–430.1
Annotated Code of Maryland
(2011 Replacement Volume and 2019 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That Section(s) 12–401(o) and (r) of Article – Financial Institutions of the Annotated Code
of Maryland be repealed.

SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 12–401(h) through
(m), (n), (p), (q), (s), and (t), respectively, of Article – Financial Institutions of the Annotated
Code of Maryland be renumbered to be Section(s) 12–401(i) through (n), (p), (q), (r), (u), and
(v), respectively.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
as follows:

Article – Financial Institutions

12–401.

(a) In this subtitle the following words have the meanings indicated.

(H) “CURRENCY” HAS THE MEANING STATED IN 31 C.F.R. § 1010.100(M).

(n) (1) “Money transmission” means **ENGAGING IN** the business of selling or issuing payment instruments or [stored value devices,] **PREPAID ACCESS** or receiving [money or monetary value, for transmission] **CURRENCY, FUNDS, OR OTHER VALUE THAT SUBSTITUTES FOR CURRENCY AND TRANSFERRING CURRENCY, FUNDS, OR OTHER VALUE THAT SUBSTITUTES FOR CURRENCY** to **ANOTHER PERSON OR** a location within or outside the United States by any means, including electronically [or], through the Internet, **THROUGH A MOBILE APPLICATION, THROUGH A NETWORK OF PERSONS, OR THROUGH AN INFORMAL VALUE TRANSFER SYSTEM.**

(2) “Money transmission” includes[:

(i) A bill payer service;

(ii) An accelerated mortgage payment service; and

(iii) Any informal money transfer system engaged in as a business for, or network of persons who engage as a business in, facilitating the transfer of money outside the conventional financial institutions system to a location within or outside the United States] **ANY OTHER ACTIVITY THAT THE COMMISSIONER IDENTIFIES AS MONEY TRANSMISSION BY REGULATION.**

(O) (1) “MONEY TRANSMITTER” MEANS A PERSON THAT ENGAGES IN MONEY TRANSMISSION AND IS REQUIRED TO BE LICENSED UNDER THIS SUBTITLE, WHETHER OR NOT THE PERSON MAINTAINS A LICENSE.

(2) “MONEY TRANSMITTER” INCLUDES:

(I) A BILL PAYER SERVICE; AND

(II) AN ACCELERATED MORTGAGE PAYMENT SERVICE.

(p) “Outstanding [payment instrument] **MONEY TRANSMISSION**” means:

(1) WITH RESPECT TO A PAYMENT INSTRUMENT OR PREPAID ACCESS, a payment instrument **OR PREPAID ACCESS** that has been sold or issued in the United States directly by a licensee or an authorized delegate of a licensee that has been reported as not yet paid by or for the licensee; **AND**

(2) WITH RESPECT TO MONEY RECEIVED FOR TRANSMISSION, CURRENCY, FUNDS, OR OTHER VALUE THAT SUBSTITUTES FOR CURRENCY

1 RECEIVED BY THE LICENSEE OR AN AUTHORIZED DELEGATE OF A LICENSEE THAT
2 HAS BEEN RECEIVED BUT NOT YET PAID TO THE BENEFICIARY.

3 (S) (1) “PREPAID ACCESS” MEANS ACCESS TO FUNDS OR THE VALUE OF
4 FUNDS THAT HAVE BEEN PAID IN ADVANCE AND CAN BE RETRIEVED OR
5 TRANSFERRED AT SOME POINT IN THE FUTURE THROUGH AN ELECTRONIC DEVICE
6 OR VEHICLE INCLUDING:

7 (I) A CARD;

8 (II) A CODE;

9 (III) AN ELECTRONIC SERIAL NUMBER;

10 (IV) A MOBILE IDENTIFICATION; OR

11 (V) A PERSONAL IDENTIFICATION.

12 (2) “PREPAID ACCESS” DOES NOT INCLUDE ACCESS TO FUNDS OR
13 THE VALUE OF FUNDS THAT MAY BE REDEEMED ONLY IN THE ISSUER’S GOODS OR
14 SERVICES.

15 (T) “SELF-SERVICE FINANCIAL KIOSK” MEANS A STAND-ALONE
16 AUTOMATED PLATFORM THROUGH WHICH A CONSUMER MAY OBTAIN MONEY
17 TRANSMISSION SERVICES.

18 (v) “Unique identifier” means a number or another identifier assigned by [the
19 nationwide licensing system] NMLS.

20 12–404.

21 (a) All revenue received for the licensing of [persons] MONEY TRANSMITTERS
22 under this subtitle and any other fee, examination assessment, or revenue received by the
23 Commissioner under this subtitle shall be:

24 (1) Credited to the Nondepository Special Fund established under § 11–610
25 of this article; and

26 (2) Used in accordance with § 11–610(c) of this article.

27 (b) Notwithstanding subsection (a) of this section, the Commissioner shall pay all
28 fines and penalties collected by the Commissioner under this subtitle into the General Fund
29 of the State.

30 12–405.

(a) A person may not engage in the business of money transmission if that person, or the person with whom that person engages in the business of money transmission, is located in the State unless that person:

(1) Is licensed by the Commissioner;

(2) Is an authorized delegate of a licensee under whose name the business of money transmission occurs; or

(3) Is a person exempted from licensing under this subtitle.

(b) Each licensee or license applicant shall obtain and maintain a valid unique identifier issued by [the nationwide licensing system:

(1) On] **NMLS** ON forming an account with [the nationwide licensing system on or after November 1, 2012; or

(2) If the Commissioner has not joined the nationwide licensing system as of November 1, 2012, on or after the date that the Commissioner joins, as specified by the Commissioner by public notice] **NMLS**.

(c) An applicant for an initial license or a license renewal shall apply for the license or renewal through [the nationwide licensing system:

(1) On or after November 1, 2012; or

(2) If the Commissioner has not joined the nationwide licensing system as of November 1, 2012, on or after the date that the Commissioner joins, as specified by the Commissioner by public notice] **NMLS**.

12-407.

(b) An applicant shall provide:

(1) The trade name of the applicant, as filed with the State Department of Assessments and Taxation under § 1-406 of the Corporations and Associations Article, and any fictitious or other name used by the applicant in the conduct of the applicant's business;

(2) The address of the principal executive office of the applicant [and], each branch location, **AND EACH SELF-SERVICE FINANCIAL KIOSK**;

(3) The name, business address, and nature of the business of each authorized delegate to be appointed by the applicant;

(4) The most recent unconsolidated financial statement of the applicant

that shall:

(i) Be prepared in accordance with generally accepted accounting principles applied on a consistent basis;

(ii) Be a certified opinion audit prepared by an independent certified public accountant;

(iii) Include a schedule of all permissible investments, if any, of the applicant; and

(iv) Be no older than 12 months before the date of the application;

(5) The name, address, and telephone number of the applicant's resident agent in the State;

(6) A history of material litigation against the applicant, if any, for the past 3 years; [and]

(7) INFORMATION THAT SATISFIES THE COMMISSIONER THAT THE APPLICANT HAS CREATED RECORD POLICIES AND PROCEDURES FOR THE COMPLIANCE PROGRAMS REQUIRED UNDER § 12-425(D) OF THIS SUBTITLE; AND

[(7)] (8) Any other information that the Commissioner reasonably requires.

(f) In addition to the license fee required under subsection (e) of this section, an applicant for an initial license shall pay to [the nationwide licensing system] **NMLS** the fee that [the nationwide licensing system] **NMLS** imposes in connection with processing the application.

(g) With the application, the applicant shall file evidence of a surety device with the Commissioner as provided in § 12-412 of this subtitle.

(h) (1) In addition to any license required under §§ 12-405 and 12-410 of this subtitle, each [person who engages in the business of] money [transmission] **TRANSMITTER** shall obtain and maintain a license for its principal executive office.

(2) For each branch location license for which an applicant applies, the applicant shall:

(i) Submit a separate application;

(ii) Pay a separate nonrefundable license fee **OF \$1,000**; and

(iii) Pay the application processing fee that [the nationwide licensing

1 system] NMLS imposes in connection with processing the application for the branch
2 location.

3 (3) FOR EACH SELF-SERVICE FINANCIAL KIOSK LICENSE FOR WHICH
4 AN APPLICANT APPLIES, THE APPLICANT SHALL:

5 (I) SUBMIT A SEPARATE APPLICATION;

6 (II) PAY A SEPARATE NONREFUNDABLE LICENSE FEE OF \$500;
7 AND

8 (III) PAY THE APPLICATION PROCESSING FEE THAT NMLS
9 IMPOSES IN CONNECTION WITH PROCESSING THE APPLICATION FOR THE
10 SELF-SERVICE FINANCIAL KIOSK.

11 [(3)] (4) If an applicant has or is applying for more than one license, the
12 applicant may comply with subsection (g) of this section by filing evidence of only one surety
13 device.

14 [(4)] (5) If an applicant has or is applying for more than one license, the
15 applicant is not required to pay a separate investigation fee.

16 12-410.

17 (e) (3) A licensee that offers Internet money transmission services shall
18 include the following notice on [its Web site] ANY WEBSITE OR MOBILE APPLICATION
19 THROUGH WHICH THE SERVICES ARE OFFERED OR ON THE OUTSIDE OF THE
20 SELF-SERVICE FINANCIAL KIOSK:

21 "The Commissioner of Financial Regulation for the State of Maryland will accept all
22 questions or complaints from Maryland residents regarding (name of licensee, license
23 number, and unique identifier) at (address of Commissioner), phone (toll-free phone
24 number of the Commissioner).".

25 12-411.

26 (a) Subject to any regulations the Commissioner adopts in connection with the
27 transition to [the nationwide licensing system] NMLS, an initial license term shall:

28 (1) Begin on the day the license is issued; and

29 (2) Expire on December 31 of the year:

30 (i) The license is issued, if the license is issued before November 1;
31 or

(ii) Succeeding the year that the license is issued, if the license is issued on or after November 1.

(c) In addition to the license renewal fee required under subsection (b)(3) of this section, an applicant for a license renewal shall pay to [the nationwide licensing system] **NMLS** the fee that [the nationwide licensing system] **NMLS** imposes in connection with the renewal application.

12–412.

(d) (1) The amount of the surety bond under subsection (b) of this section or the deposit in lieu of a surety bond under subsection (c) of this section shall be in an amount of not less than \$150,000 and not more than \$1,000,000, as determined by the Commissioner.

(2) In setting the amount of the surety bond or the deposit in lieu of a surety bond, the Commissioner shall consider:

(i) The financial condition of the licensee or applicant;

(ii) For a licensee, the average monthly [outstanding payment instruments or] outstanding money transmission liability for the previous 12 months;

(iii) For an applicant, the projected monthly [payment instrument sales and] money transmission volume in the State, the business experience, and any other factor deemed appropriate; and

(iv) The potential loss of [buyers and holders of payment instruments or] **MONEY TRANSMISSIONS BY** persons for whom or to whom money is transmitted if the applicant or licensee becomes financially impaired.

12–413.

(a) (1) Each authorized delegate that a licensee appoints under a license is the designated agent of the licensee for all purposes in connection with the licensee's business under that license.

(2) Each licensee under this subtitle is liable for the payment of all money [transmitted and payment instruments sold] **TRANSMISSIONS** by the licensee, in whatever form, directly or through an authorized delegate.

12–414.

(d) (1) All funds received by an authorized delegate from [the sale of a payment instrument] **MONEY TRANSMISSION SERVICES**, less fees, shall constitute trust

funds belonging to the licensee from the time the funds are received by the authorized delegate until the time when the funds are remitted to the licensee.

(2) If an authorized delegate commingles any of the funds received with any other funds or property owned or controlled by the authorized delegate, all commingled funds and other property shall be impressed with a trust in favor of the licensee in an amount equal to the amount of the funds due the licensee.

12-415.

(c) In addition to any sanctions that may be imposed by the Commissioner under this subtitle, a licensee who fails to provide in a timely manner the notice required under subsection (a)(1) or (b)(1) of this section shall:

(1) For each failure, pay to the Commissioner a penalty in the amount of \$500; and

(2) **[Apply] FOR A LICENSEE WHO FAILS TO TIMELY PROVIDE THE NOTICE REQUIRED UNDER SUBSECTION (B)(1) OF THIS SECTION, FILE WITH THE COMMISSIONER AN APPLICATION** for a new license, together with all appropriate application and investigation fees.

12-416.

[(a) Within 45 days of the end of each calendar semiannual period ending June 30 and December 31, the licensee shall file with the Commissioner a report that includes the following information on a form that the Commissioner requires:

(1) An unaudited, unconsolidated financial statement, including a balance sheet, income statement, statement of changes in equity, and statement of cash flows;

(2) A schedule of the permissible investments that the licensee holds as required under § 12-418 of this subtitle;

(3) A statement of outstanding payment instruments;

(4) A report of all authorized delegates that includes:

(i) An alphabetical list of all currently authorized delegates appointed by the licensee that includes the name, business address, business phone number, and business electronic mail address, if known to the licensee, of each authorized delegate;

(ii) An alphabetical list of all authorized delegates appointed by the licensee during the previous 6 months that includes the name, business address, business phone number, business electronic mail address, if known to the licensee, and date of appointment of each authorized delegate; and

(iii) An alphabetical list of all authorized delegates terminated by the licensee during the previous 6 months that includes the name, business address, business phone number, business electronic mail address, if known to the licensee, and date of termination of each authorized delegate; and

(5) A statement under oath by an executive officer of the licensee certifying the information to be true based on the executive officer's knowledge of the matters in the report.

(b) On or before 120 days after the close of the fiscal year of the licensee, each licensee shall file with the Commissioner an annual report that:

(1) Includes financial statements of the licensee audited by a certified public accountant and prepared in accordance with generally accepted accounting principles for the previous calendar year;

(2) States the number and aggregate dollar amount of payment instruments issued or sold and the aggregate number and dollar amount of money transmissions during the previous calendar year;

(3) Contains any other information the Commissioner reasonably requires;

(4) Is on a form that the Commissioner requires; and

(5) Is signed by an executive officer of the licensee who certifies under oath that the information in the report is true based on the executive officer's knowledge of the matters in the report.]

(A) A LICENSEE SHALL SUBMIT TO NMLS A CALL REPORT ONCE EACH QUARTER ON THE DATE, IN THE FORM, AND CONTAINING THE INFORMATION THAT NMLS REQUIRES.

[(c)] (B) (1) Within 15 days after the occurrence of any of the following events, a licensee shall file a written report with the Commissioner describing the event and its expected impact on the licensee's activities in the State:

(i) The filing for bankruptcy or reorganization by the licensee;

(ii) The institution of revocation or suspension proceedings against the licensee by any state or governmental authority with regard to the licensee's money transmission activities in any state;

(iii) Any felony indictment or conviction of the licensee or any of its officers or directors related to money transmission activities;

(iv) The commencement of any civil action by a buyer or holder of a payment instrument or person for whom or to whom money is transmitted against a licensee; and

(v) The filing of any material litigation against the licensee.

(2) The written report required under paragraph (1) of this subsection shall be [sent] **SUBMITTED** to the Commissioner [by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, within 10 days after the action is begun and include details sufficient to identify the event] **THROUGH NMLS**.

(C) A LICENSEE SHALL SUBMIT TO NMLS THE UNIFORM AUTHORIZED AGENT REPORTING ONCE EACH QUARTER ON THE DATE THAT NMLS REQUIRES.

(d) A licensee promptly shall file with the Commissioner any demand borrowing agreement or agreements into which the licensee may enter as a permissible investment or a deposit in lieu of a surety bond.

12–418.

(a) (1) Subject to the provisions of paragraph (2) of this subsection, a licensee shall have at all times permissible investments having an aggregate market value, calculated in accordance with generally accepted accounting principles, of not less than the aggregate face amount of all outstanding [payment instruments issued or sold] **MONEY TRANSMISSIONS CONDUCTED** by the licensee in the United States.

(2) The requirement imposed under paragraph (1) of this subsection may be waived by the Commissioner if the dollar volume of a licensee's outstanding [payment instruments] **MONEY TRANSMISSIONS** does not exceed the surety device filed in accordance with § 12–412 of this subtitle.

(b) **(1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,** A licensee shall require each authorized delegate, within 48 hours after the next regular business day after the authorized delegate receives the proceeds from a money transmission, to remit the proceeds to the licensee or the licensee's authorized representative, or deposit the proceeds in the licensee's account with a financial institution.

(2) A LICENSEE SHALL REQUIRE EACH AUTHORIZED DELEGATE WHO SELLS PREPAID ACCESS, WITHIN 5 BUSINESS DAYS AFTER THE NEXT REGULAR BUSINESS DAY AFTER THE AUTHORIZED DELEGATE RECEIVES THE PROCEEDS FROM THE SALE OF PREPAID ACCESS, TO REMIT THE PROCEEDS TO THE LICENSEE OR THE LICENSEE'S AUTHORIZED REPRESENTATIVE OR TO DEPOSIT THE PROCEEDS IN THE LICENSEE'S ACCOUNT WITH A FINANCIAL INSTITUTION.

(c) Deposit by the authorized delegate in an account with a financial institution

of funds in advance of money transmissions, but in an amount not less than the amount that the authorized delegate would normally receive from money transmissions, constitutes compliance with this section.

12-422.

(a) (1) A licensee may surrender a license by sending to the Commissioner a written statement that the license is surrendered.

(2) The statement shall provide a listing, by identifying number, face amount, and place of issue, of all outstanding [payment instruments] **MONEY TRANSMISSIONS**, and the reasons for the license surrender.

12-425.

(a) Each licensee shall make and preserve the following books, accounts, and records for a period of at least 3 years:

(1) A record of each [payment instrument sold or issued] **MONEY TRANSMISSION CONDUCTED**;

(2) A general ledger containing all assets, liability, capital, income, and expense accounts, which general ledger shall be posted at least monthly;

(3) Settlement sheets received from each authorized delegate;

(4) Bank statements and bank reconciliation records;

(5) Records of outstanding [payment instruments] **MONEY TRANSMISSIONS**;

(6) Records of each [payment instrument paid] **MONEY TRANSMISSION CONDUCTED** within the 3-year period;

(7) A list of the names and addresses of all the licensee's authorized delegates, past and present; and

(8) A list of the dates that the training materials required under § 12-413.1 of this subtitle were provided to the licensee's authorized delegates, agents, and subdelegates.

(b) A licensee shall retain the records required under this section in:

(1) Original form; or

(2) Photographic, electronic, or other similar form.

(c) A licensee may retain the records required under this section at any location, provided that the licensee:

(1) Notifies the Commissioner in writing of the location of the records; and

(2) Makes the records available at a place of business for which a license has been issued, as agreed by the Commissioner and the licensee, within 7 days after a written request for examination by the Commissioner.

(D) A LICENSEE SHALL MAINTAIN RECORD POLICIES AND PROCEDURES FOR THE FOLLOWING PROGRAMS:

(1) AN INFORMATION SECURITY AND OPERATIONAL SECURITY PROGRAM;

(2) A BUSINESS CONTINUITY PROGRAM;

(3) A DISASTER RECOVERY PROGRAM;

(4) AN ANTIFRAUD PROGRAM;

(5) AN ANTI-MONEY-LAUNDERING PROGRAM; AND

(6) A PROGRAM TO PREVENT FUNDING OF TERRORIST ACTIVITY.

12-427.

A [person that engages in the business of] money [transmission] **TRANSMITTER** is subject to the enforcement provisions of §§ 2-114 through 2-116 of this article if the [person] **MONEY TRANSMITTER**:

(1) Is not licensed under this subtitle; or

(2) Is not an authorized delegate of a licensee.

12-430.1.

(a) (1) Notwithstanding Title 4, Subtitles 1 through 5 of the General Provisions Article, and subject to § 12-408.1 of this subtitle, the Commissioner shall report adjudicated enforcement actions against a money transmitter or its authorized delegate and other relevant information to [the nationwide licensing system] **NMLS**.

(2) The Commissioner shall adopt regulations establishing a process by which a licensee or an applicant for a license may challenge information entered by the

1 Commissioner into [the nationwide licensing system] **NMLS**.

2 (b) The Commissioner may submit to [the nationwide licensing system] **NMLS**
3 information regarding enforcement actions against [persons engaged in the] money
4 [transmission business] **TRANSMITTERS** who are not licensees or authorized delegates.

5 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2020.