

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 69

Banks and Thrift Institutions Committee Substitute Adopted 4/9/91

Finance Committee Substitute #2 for Committee Substitute #1 Adopted 5/2/91

Short Title: Money Transmitters Act.

(Public)

Sponsors:

Referred to:

February 13, 1991

A BILL TO BE ENTITLED

AN ACT TO REGULATE THE TRANSMISSION OF MONEY AND THE SALE OF CHECKS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 53-192 reads as rewritten:

"ARTICLE 16.

"SALE OF CHECKS ACT.

"MONEY TRANSMITTERS ACT.

"§ 53-192. Citation of Article.

This Article shall be known and may be cited as the "~~Sale of Checks Act.~~" "Money Transmitters Act."

Sec. 2. G.S. 53-193 reads as rewritten:

"§ 53-193. Definitions.

~~For the purpose of~~ The following definitions apply in this Article:

- (1) ~~'Person' means any individual, partnership, association, joint stock association, trust or corporation;~~
- (2) ~~'Licensee' means any person duly licensed by the Commissioner pursuant to this Article;~~
- (3) ~~'Check' means any check, draft, money order or other instrument for the transmission or payment of money;~~
- (4) ~~'Commissioner' means the Commissioner of Banks of the State of North Carolina.~~

- 1 (1) Check. A check, draft, money order, or other instrument for the
2 transmission or payment of money, including any instrument
3 transmitted by wire or any other means.
- 4 (2) Commissioner. The Commissioner of Banks of the State of North
5 Carolina.
- 6 (3) Licensee. A person duly licensed by the Commissioner under this
7 Article.
- 8 (4) Permissible Investment. An investment in any of the following:
9 a. Unencumbered cash.
10 b. Unencumbered investment securities that are obligations of the
11 United States, its agencies, or instrumentalities.
12 c. Unencumbered obligations fully guaranteed as to principal and
13 interest by the United States.
14 d. Unencumbered obligations of any state, municipality, or any
15 political subdivision thereof.
16 e. Any other investments approved by the Commissioner.
- 17 (5) Person. An individual, partnership, association, joint stock
18 association, trust, or corporation."

19 Sec. 3. G.S. 53-195 reads as rewritten:

20 **"§ 53-195. Exemptions.**

21 Nothing in this Article shall apply to the sale or issuance of checks by:

- 22 (1) Corporations organized under the general banking laws of ~~this State~~
23 any state where deposits are required to be insured by an agency of the
24 federal government or under the general banking laws of the United
25 States.
- 26 (2) The government of the United States or any department or agency
27 thereof.
- 28 (3) Savings and loan associations, savings banks, industrial banks, and
29 credit unions organized under the laws of ~~this State~~ any state where
30 deposits are required to be insured by an agency of the federal
31 government or under the laws of the United States.
- 32 (4) Exempt entities which sell or issue checks through 'nonbank' agents or
33 locations."

34 Sec. 4. G.S. 53-197 reads as rewritten:

35 **"§ 53-197. Investigation fee.**

36 Each application for a license shall be accompanied by an investigation fee of five
37 hundred dollars (\$500.00). ~~If the license is granted, the investigation fee shall be applied to~~
38 ~~the license fee for the first year.~~ No investigation fee shall be refunded."

39 Sec. 5. Article 16 of Chapter 53 is amended by adding a new section to read:

40 **"§ 53-199.1. Required investments; permissible investments.**

41 Every licensee under this Article shall have on hand permissible investments in an
42 amount equal to the aggregate face value of all outstanding checks sold by the licensee
43 for which the licensee is liable for payment. The requirements of this section may be
44 waived by the Commissioner if a finding is made, upon examination of audited financial

1 statements and other appropriate analysis, that the surety bond required by G.S. 53-198
2 is sufficient to cover the aggregate face value of all outstanding checks sold by the
3 licensee."

4 Sec. 6. G.S. 53-202 reads as rewritten:

5 **"§ 53-202. License fees.**

6 Each licensee shall pay to the Commissioner within five days after the issuance of
7 the license, and annually thereafter on or before ~~June 30~~ December 31 of each year, a
8 license fee of ~~five hundred dollars (\$500.00)~~ one thousand dollars (\$1,000), plus an agent
9 location fee for each location at which its checks are sold. The amount of the agent
10 location fee shall be established by rule. For the year ending December 31, 1991, each
11 licensee shall pay a license fee of five hundred dollars (\$500.00)."

12 Sec. 7. G.S. 53-203 reads as rewritten:

13 **"§ 53-203. More than one location authorized; employees, agents and**
14 **representatives.**

15 ~~Each A~~ licensee may conduct business at one or more locations within this State and
16 ~~through or by means of such employees, agents, subagents or representatives as such~~
17 ~~licensee may from time to time designate and appoint.~~ State. A certificate must be
18 posted in public view in each location disclosing the name of the issuer and citing the
19 authority under which the issuer is operating. A licensee may conduct business through
20 an employee or other person designated by the licensee. No license under this Article
21 shall be required of any such employee, agent, subagent or representative person who is
22 acting for or on behalf of a licensee hereunder in the sale of checks of which the
23 licensee is the issuer. ~~licensee. Each such agent, subagent or representative A person~~
24 representing a licensee shall upon demand transfer and deliver to the licensee the
25 proceeds of the sale of licensee's checks less the fees, if any, due such agent, subagent
26 or representative. that person."

27 Sec. 8. Article 16 of Chapter 53 of the General Statutes is amended by
28 adding a new section to read:

29 **"§ 53-203.1. Checks to bear name of issuer.**

30 Each check issued or sold by a licensee, either directly or indirectly through a person
31 representing the licensee, shall bear the name and the address or telephone number of
32 the issuer clearly imprinted on either the check or another document delivered to the
33 purchaser at the time of sale."

34 Sec. 9. G.S. 53-204 reads as rewritten:

35 ~~"§ 53-204. Annual lists of locations and agents; annual financial statements; audits.~~
36 **Reporting requirements; audits.**

37 (a) ~~Each A~~ licensee shall file with the Commissioner annually on or before ~~June~~
38 ~~30~~ December 31 of each year a statement listing the locations of the offices of the
39 licensee and the names and locations of the ~~agents or subagents persons~~ authorized by the
40 licensee to engage in the sale of checks of which the licensee is the ~~issuer and~~ issuer. A
41 licensee shall also file a statement correctly reflecting its net worth as of the close of its
42 most recent fiscal year, such year. The statement of net worth to must be certified to by a
43 certified public accountant satisfactory to the Commissioner. Commissioner and it must

1 be filed no later than April 30 for the preceding year. A licensee shall file quarterly
2 reports of agent activity with the Commissioner.

3 (b) The Commissioner may conduct or cause to be conducted an examination or
4 audit of the books and records of any licensee at any time or times he shall deem proper,
5 time when considered proper. The licensee must pay the cost of such the examination or
6 audit to be borne by the licensee. audit. In lieu of an examination or audit, the
7 Commissioner may accept an audit or examination report compiled by money
8 transmitter regulators of another state. The refusal of access to such books and records
9 shall be cause for the revocation of license."

10 Sec. 10. Article 16 of Chapter 53 of the General Statutes is amended by
11 adding a new section to read:

12 **"§ 53-206.1. Rules.**

13 The Banking Commission may adopt rules necessary to implement this Article."

14 Sec. 11. This act becomes effective October 1, 1991.