

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 69

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

Short Title: Money Transmitters Act.

(Public)

Sponsors:

Referred to:

February 13, 1991

1 A BILL TO BE ENTITLED
2 AN ACT TO REGULATE THE TRANSMISSION OF MONEY AND THE SALE OF
3 CHECKS.

4 The General Assembly of North Carolina enacts:

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

6 "ARTICLE 16.

7 "~~SALE OF CHECKS ACT.~~

8 "MONEY TRANSMITTERS ACT.

9 "§ 53-192. Citation of Article.

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

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

13 "§ 53-193. Definitions.

14 For the purpose of this Article:

- 15 (1) 'Person' means any individual, partnership, association, joint stock
16 association, trust or corporation;
- 17 (2) 'Licensee' means any person duly licensed by the Commissioner
18 pursuant to this Article;
- 19 (3) 'Check' means any check, draft, money order or other instrument for
20 the transmission or payment of money including any instrument
21 transmitted by wire or any other means;
- 22 (4) 'Commissioner' means the Commissioner of Banks of the State of
23 North Carolina."

1 Sec. 3. G.S. 53-197 reads as rewritten:

2 **"§ 53-197. Investigation fee.**

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

6 Sec. 4. Article 16 of Chapter 53 is amended by adding a new section to read:

7 **"§ 53 -199.1. Required investments; permissible investments.**

8 (a) Every licensee under this act shall at all times when such license is in effect
9 have on hand permissible investments in an amount equal to the aggregate face value of
10 all outstanding checks sold by the licensee for which the licensee is liable for payment.
11 Provided, however, the requirements of this section may be waived by the
12 Commissioner if he finds, upon examination of audited financial statements and other
13 appropriate analysis, that the surety bond required by G.S. 53-198 is sufficient to cover
14 the aggregate face value of all outstanding checks sold by the licensee.

15 (b) For the purposes of this section, 'permissible investments' means
16 unencumbered:

17 (1) Cash;

18 (2) Investment securities that are obligations of the United States, its
19 agencies or instrumentalities, or obligations that are guaranteed fully
20 as to principal and interest by the United States, or any obligations of
21 any state, municipality, or of any political subdivision thereof; or

22 (3) Any other investments approved by the Commissioner.

23 (c) The Commissioner may adopt and enforce rules with respect to required
24 permissible investments in order to prevent unsafe and unsound practices."

25 Sec. 5. G.S. 53-202 reads as rewritten:

26 **"§ 53-202. License fees.**

27 Each licensee shall pay to the Commissioner within five days after the issuance of
28 the license, and annually thereafter on or before ~~June 30~~ December 31 of each year, a
29 license fee of ~~five hundred dollars (\$500.00)~~ one thousand dollars (\$1,000), plus an agent
30 location fee for each location at which its checks are sold, such fee to be established by
31 rule. Provided, however, there shall be no per location fee payable for locations
32 exempted under G.S. 53-205. Provided further, for the year ending December 31, 1991,
33 each licensee shall pay a license fee of five hundred dollars (\$500.00)."

34 Sec. 6. G.S. 53-203 reads as rewritten:

35 **"§ 53-203. More than one location authorized; employees, agents and**
36 **representatives.**

37 Each licensee may conduct business at one or more locations within this State and
38 through or by means of such employees, agents, subagents or representatives as such
39 licensee may from time to time designate and appoint. No license under this Article
40 shall be required of any such employee, agent, subagent or representative who is acting
41 for or on behalf of a licensee hereunder in the sale of checks of which the licensee is the
42 issuer. Provided, however, each location, other than locations exempted under G.S. 53-
43 195, selling checks and money orders must post in public view a certificate which
44 discloses the name of the issuer and cites the authority under which such issuer is

1 operating. Provided further, each licensee must file with the Commissioner a quarterly
2 report of agent activity, the scope of which report shall be set by regulation. Each such
3 agent, subagent or representative shall upon demand transfer and deliver to the licensee
4 the proceeds of the sale of licensee's checks less the fees, if any, due such agent,
5 subagent or representative."

6 Sec. 7. Article 16 of Chapter 53 of the General Statutes is amended by
7 adding a new section to read:

8 **"§ 53-203.1. Checks to bear name of issuer.**

9 Each check, draft, money order or other payment instrument issued or sold by a
10 licensee, either directly or indirectly, or through an agent, shall bear the name, along
11 with the address or telephone number of the issuer clearly imprinted thereon, or on
12 another document delivered to the purchaser at the time of sale."

13 Sec. 8. G.S. 53-204 reads as rewritten:

14 **"§ 53-204. Annual lists of locations and agents; annual financial statements; audits.**

15 Each licensee shall file with the Commissioner annually on or before ~~June 30~~
16 December 31 of each year a statement listing the locations of the offices of the licensee
17 and the names and locations of the agents or subagents authorized by the licensee to
18 engage in the sale of checks of which the licensee is the issuer and shall also file a
19 statement correctly reflecting its net worth as of the close of its most recent fiscal year,
20 such statement to be certified to by a certified public accountant satisfactory to the
21 Commissioner. Such statement shall be filed no later than April 30 for the preceding
22 year. The Commissioner may conduct or cause to be conducted an examination or audit
23 of the books and records of any licensee at any time or times he shall deem proper, the
24 cost of such examination or audit to be borne by the licensee. In lieu of such
25 examination or audit, the Commissioner may accept an audit or examination report
26 compiled by money transmitter regulators of another state. The refusal of access to such
27 books and records shall be cause for the revocation of license."

28 Sec. 9. G.S. 53-195 reads as rewritten:

29 **"§ 53-195. Exemptions.**

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

- 31 (1) Corporations organized under the general banking laws of ~~this State~~
32 any state where deposits are required to be insured by an agency of the
33 federal government, or of the United States.
- 34 (2) The government of the United States or any department or agency
35 thereof.
- 36 (3) Savings and loan associations, savings banks, industrial banks, and
37 credit unions organized under the laws of ~~this State~~ any state where
38 deposits are required to be insured by an agency of the federal
39 government, or of the United States.
- 40 (4) Notwithstanding the above provisions, this section shall not apply to
41 exempt entities which sell or issue checks through 'nonbank' agents or
42 locations."

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

1 **"§ 53-206.1. Rules and regulations.**

2 Notwithstanding the provisions of G.S. 53-95, the Commissioner may promulgate
3 such rules and regulations as may be necessary to effectuate the purposes of this Article,
4 to provide for the protection of the public, and to instruct money transmitters in
5 interpreting this Article."

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