

State of Arkansas

76th General Assembly

Regular Session, 1987 AS ENGROSSED 2/13/87

HOUSE BILL 1147

By: Representative Mahony

"AN ACT TO AMEND VARIOUS PROVISIONS OF THE SALE OF CHECKS LAW,
ACT 124 OF 1965, AS AMENDED."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Subsection 3 of Section 2 of Act 124 of 1965, as amended, the same being Ark. Stat. Ann. §67-1902(3) [Repl. 1980], is hereby amended to read as follows:

"3. 'Fiscal Year' means a licensee's accounting period as adopted for federal taxation purposes."

SECTION 2. Subsection 7 of Section 2 of Act 124 of 1965, as amended, the same being Ark. Stat. Ann. §67-1902(7) [Repl. 1980], is hereby amended to read as follows:

"7. 'Net Worth' means excess of assets over liabilities as determined by generally accepted accounting principles."

SECTION 3. Section 3 of Act 124 of 1965, as amended, the same being Ark. Stat. Ann. §67-1903 [Repl. 1980], is hereby amended to read as follows:

"Section 3. LICENSES. AGENTS. EXCEPTIONS. DEPOSIT OF RECEIPTS.

(a) No person shall engage in the business of selling or issuing checks as a service or for a fee or other consideration without first securing a license to do so from the Commissioner under the Act.

(b) A separate license is not required for an agent of a licensee, or an employee of such agent, who acts on behalf of such licensee in the sale or of checks of which the licensee is the issuer unless the agent directly sells or delivers the licensee's checks over the counter to the public and, in the ordinary course of business, receives or has access to:

(1) the licensee's checks which, after payment, are returned

through banking channels or otherwise for verification, reconciliation or accounting with respect thereto; or

(2) bank statements relating to checks so returned.

(c) the term "agent" as referred to in this Act shall in every instance include "subagents" of the licensee or other representatives who are authorized to act on behalf of the licensee in the sale of checks issued by the licensee, whether or not the "subagent" or representative was solicited by or deals directly with the licensee.

(d) All money or credits received by an agent of a licensee from the sale or issuance of checks or for the purpose of transmission must be remitted to the licensee or deposited with a bank authorized to do business in this State for credit to an account of the licensee not later than the third business day following its receipt, provided however, such requirement shall not apply if an agent has placed on deposit with the licensee an amount not less than the average of the aggregate face amount of checks issued by the licensee and sold by the agent per day multiplied by the number of days in excess of three of the remittance period agreed to in a written agreement between the agent and licensee; provided however, such requirement shall not apply to funds received from the sale of travelers checks."

SECTION 4. Section 4 of Act 124 of 1965, as amended, the same being Ark. Stat. Ann. §67-1904 [Repl. 1980], is hereby amended to read as follows:

"Section 4. EXEMPT TRANSACTIONS.

(a) This Act shall not apply to the receipt of money by any incorporated telegraph company at any agency or office of such company for immediate transmission by telegraph.

(b) This Act shall not apply to the sale or issuance of checks by:

(1) the United States or any department or agency of the United States;

(2) banks, credit unions, and savings and loan associations organized under the laws of this State or of the United States and insured by the United States or any agency thereof, and authorized to do business in this State."

SECTION 5. Section 5 of Act 124 of 1965, as amended, the same being Ark. Stat. Ann. §67-1905 [Repl. 1980], is hereby amended to read as follows:

"Section 5. APPLICATION FOR LICENSE. GROUNDS FOR DENIAL.

(a) Every application for a license required under this Act shall be in writing, signed by the applicant, in the form prescribed by the Commissioner, and shall be submitted under oath.

(b) The application shall contain:

(1) the name and principal business address of the applicant and, if incorporated, the date and place of its incorporation;

(2) the name and address of each of the applicant's branch offices, subsidiaries or affiliates, if any, which will be operated under the license;

(3) the name and address, business and residential, of the proprietor or partners of the applicant or, if the applicant is a corporation or association, of each of the directors, trustees and principal officers and of any stockholder who owns twenty percent (20%) or more of the applicant's stock;

(4) a description of applicant's business and mode of operation;

(5) the name and address of each agent and location in this State through which checks will be issued or sold pursuant to the license;

(6) the name of every other state in which the applicant has applied for or has been granted a license or authorization to sell or issue or is selling or issuing checks; and

(7) such other pertinent information as the Commissioner may require.

(c) The application must be accompanied by:

(1) a surety bond or securities as required by this Act;

(2) evidence of the ability of the applicant to meet the requirements of this Act, which may include, among other information, an audited financial statement, satisfactory to the Commissioner, showing that the applicant's minimum net worth is equal to or in excess of Five Hundred Thousand Dollars (\$500,000.00).

(3) a nonrefundable fee of Fifteen Hundred Dollars (\$1,500.00) for processing of the initial application. The applicant shall also pay such additional expenses incurred in the process of investigation as the Commissioner deems necessary, provided however, that such additional expenses shall not exceed the sum of one hundred dollars (\$100.00) per day for each examiner required for the investigation, plus travel

expenses, if appropriate; and

(4) a license fee in the amount specified in Section 7 of this Act, which may be prorated on the basis of the licensing year as provided by the Commissioner.

(d) The Commissioner shall approve an application for a license within ninety (90) days from the date of filing and shall approve a renewal of a license within thirty (30) days of filing, except the Commissioner may deny an application or a renewal if, after notice and opportunity for a hearing, the Commissioner makes any of the following findings in a written order of denial:

(1) the granting of the license will be against the public interest;

(2) the applicant does not intend actively and in good faith to carry on as a business the transactions which would be permitted by the issuance of the license applied for;

(3) the applicant is not of good business reputation;

(4) the applicant is lacking in integrity; for purposes of this subsection, the Commissioner may find that an applicant is lacking in integrity if the applicant, or any person who controls the applicant, or any director or officer of the applicant, has been convicted of, or has pled guilty or nolo contendere, to any crime involving fraud or dishonesty. This shall not be deemed to constitute the only grounds upon which the Commissioner may find that the applicant is lacking in integrity.

(5) the applicant or any person acting on behalf of the applicant has knowingly made or caused to be made in any application or report filed with the Commissioner, or in any proceeding before the Commissioner, any statement which was, at the time and in light of the circumstances under which it was made, false or misleading with respect to any material fact, or has knowingly omitted to state in any such application or report or proceeding any material fact which is required to be stated therein;

(6) the applicant has previously engaged in any fraudulent practice or act or has conducted any business in an unlawful or dishonest manner;

(7) the applicant has shown incompetence or untrustworthiness in the conduct of any business, or has by commission of a wrongful act or practice in the course of business, exposed the public or those dealing

with the applicant to the danger of loss;

(8) the applicant has knowingly failed to perform a duty expressly imposed upon the applicant by this Act, or has knowingly committed an act expressly forbidden by this Act;

(9) the applicant has been convicted of, or pled guilty to:

- a. a felony; or
- b. any crime involving moral turpitude;

(10) the applicant has knowingly aided or abetted any person in any act or omission which could constitute grounds for denial, suspension or revocation of a license issued under this Act;

(11) the applicant has knowingly permitted any person in its employ to violate any provision of this Act;

(12) the applicant fails or refuses to pay any fee required herein.

(e) As used in this section, 'applicant' shall mean the person holding or seeking a license pursuant to this Act, any director or officer of such person, or any person who controls such person."

SECTION 6. Section 6 of Act 124 of 1965, as amended, the same being Ark. Stat. Ann. §67-1906 [Repl. 1980], is hereby amended to read as follows:

"Section 6. INVESTIGATION OF APPLICANTS AND LICENSEES. The Commissioner shall have the authority to investigate the financial condition, responsibility, business experience, background character, general fitness and conduct of the applicant or licensee and any partners, directors, trustees, officers or employees, for the purpose of determining whether a license should be issued to the applicant or whether a licensee has committed any act or omission that could constitute grounds for denial, suspension or revocation of license issued under this Act."

SECTION 7. Section 7 of Act 124 of 1965, as amended, the same being Ark. Stat. Ann. §67-1907 [Repl. 1980], is hereby amended to read as follows:

"Section 7. ANNUAL LICENSE FEE---RENEWAL.

(a) Except as provided in Section 5(c)(4) of this Act, before any license is issued or renewed, the applicant or licensee shall pay an annual license fee in the amount of Seven Hundred Fifty Dollars (\$750.00).

(b) A license issued pursuant to this Act expires on December 31 of the year in which it is issued, and thereafter expires on December 31 of each year

unless it is earlier surrendered, suspended or revoked.

(c) The license may be renewed from year to year upon payment of the fee required by this Section and approval of the Commissioner, provided the licensee files and application for renewal stating any changes from the original application of the licensee, at least thirty days before the expiration of his current license, and provided the applicant continues to comply with all provisions of this Act and all regulations and rules hereunder."

SECTION 8. Section 8 of Act 124 of 1965, as amended, the same being Ark. Stat. Ann. §67-1908 [Repl. 1980], is hereby amended to read as follows:

"Section 8. SURETY BOND.

(a) Each applicant shall submit prior to issuance of a license and shall maintain in force at all times during which he is licensed a surety bond payable to the Commissioner for the benefit of any holder of any outstanding check sold or issued by the licensee or its agents in the principal sum of Two Hundred Fifty Thousand Dollars (\$250,000.00).

(b) The bond shall be in a form satisfactory to the Commissioner, issued by a bonding company authorized to do business in this State, and shall secure the faithful performance of the obligation of the applicant and its agents with respect to the receipt of money and the issuance and sale of checks in connection thereto. The aggregate liability of the surety shall in no event exceed the principal sum of the bond.

(c) In the event of the rendering of a judgment against a licensee in an amount in excess of ten percent of the net worth of the licensee, the licensee shall, within ten days after the notice of entry of such judgment against it by any creditor or claimant arising out of the business regulated by this Act, give notice thereof to the Commissioner by registered or certified mail with details sufficient to identify the action or judgment. The surety or licensee shall, within ten days after it pays any claim or judgment to such a creditor or claimant, give notice thereof to the Commissioner by registered or certified mail with details sufficient to identify the creditor or claimant and the claim or judgment so paid.

(d) Whenever the principal sum of the bond is reduced by recoveries against it or payments thereon, the licensee shall furnish:

(1) a new or additional bond so that the total or aggregate principal sum of the bonds equals the sum required under paragraph

(a) hereof; or

(2) an endorsement, duly executed by the surety reinstating the bond to the required principal sum.

(e) The liability of the surety on the bond to any such creditor or claimant shall not be affected by any misrepresentation, breach of warranty, failure to pay a premium, or other act or omission of the licensee, or by any insolvency or bankruptcy of the licensee.

(f) The liability of the surety shall continue as to all transactions entered into in good faith by the creditors and claimants with the licensee's agents within 30 days after the earlier of:

(1) the licensee's death or the dissolution or liquidation of his business; or

(2) the termination of the bond.

(g) Whenever the Commissioner determines that the protection of the public so requires, he may order that an increase be made in the principal sum of the original bond of any licensee; provided, however, that such increase shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00).

(h) Neither a licensee nor his surety may cancel or alter such a bond except after notice to the Commissioner by registered or certified mail. The cancellation or alteration is not effective until 30 days after receipt of the notice by the Commissioner. A cancellation or alteration does not affect any liability incurred or accrued on the bond before the expiration of the 30 day period set forth in paragraph (f) hereof."

SECTION 9. Section 9 of Act 124 of 1965, as amended, the same being Ark. Stat. Ann. §67-1909 [Repl. 1980], is hereby amended to read as follows:

"Section 9. DEPOSIT OF SECURITIES IN LIEU OF BOND. In lieu of any bond required under this Act, the licensee may deposit with the Commissioner securities with a market value equal to the amount of any such bond. Such securities shall consist of

(a) General obligations of or obligations fully guaranteed by the United States or of any agency or instrumentality of or corporation wholly owned by the United States directly or indirectly; or

(b) Direct general obligations of the State of Arkansas, or of any county, city, town, school district, or other political subdivision or municipal corporation of the State of Arkansas.

Such securities shall be held by the Commissioner to secure the same obligation as would any bond required by this Act. The securities so deposited may, with the approval of the Commissioner, be exchanged from time to time for other securities receivable as aforesaid. All such securities shall be subject to sale, transfer and to the disposal of the proceeds by the Commissioner only on the order of a court of competent jurisdiction. So long as the licensee depositing shall continue solvent, such licensee shall be permitted to receive the interest or dividends on the deposit of securities. The Commissioner may provide for custody of such securities by any qualified trust company or bank located in the State of Arkansas or by any Federal Reserve Bank. The compensation, if any, of the custodian for acting as such under this Section shall be paid by the depositing licensee."

SECTION 10. Section 10 of Act 124 of 1965, as amended, the same being Ark. Stat. Ann. §67-1910 [Repl. 1980], is hereby amended to read as follows:

"Section 10. MINIMUM NET WORTH. RESERVES. COMMINGLING PROHIBITED.

(a) Each licensee under this Act shall at all times maintain a minimum net worth of at least Five Hundred Thousand Dollars (\$500,000.00).

(b) Each licensee shall at all times maintain permissible investments having a value, computed in accordance with generally accepted accounting principles equal to or greater than the aggregate liabilities of the licensee with respect to checks sold or issued and outstanding and money or credits received for transmission. As used herein "permissible investment" shall mean:

(i) Cash.

(ii) Certificates of deposit or other debt instruments of a financial institution which debt instruments are insured by an agency of the federal government and which are readily marketable.

(iii) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by member banks of the federal reserve system.

(iv) Commercial paper of prime quality as defined by a nationally recognized organization that rates such paper.

(v) Investment securities that are obligations of the United States or any of its agencies or instrumentalities, or obligations which are guaranteed fully as to principal and interest by the United States, or any obligations of any state, municipality, or of any political subdivision

of state or municipality.

(vi) Shares in a money market fund, or interest-bearing bills, notes or bonds.

(vii) Any common or preferred stock traded on a national securities exchange. Investments in stock under this subparagraph shall not exceed 10% of the amount of permissible investments held by a licensee or 20% of the net worth of the licensee, whichever is less.

(viii) Any other investments approved by the commissioner.

(c) (i) All funds collected or received from the sale of checks by an agent shall be impressed with a trust in favor of such licensee in an amount equal to the amount of the proceeds due the licensee and shall not be commingled with other funds of the agent.

(ii) No proceeds received by any agent or agents of a licensee from the sale of any check issued by such licensee, while held by the agent, nor any property impressed with a trust pursuant to this section shall be subject to attachment, levy of execution, or sequestration by order of any court, except for the benefit of the licensee. In the event that a licensee's license be revoked by the commissioner, all sales proceeds then held in trust by agents of that licensee shall be deemed to have been assigned to the commissioner."

SECTION 11. Section 11 of Act 124 of 1965, the same being Ark. Stat. Ann. §67-1911 [Repl. 1980], is hereby amended to read as follows:

"Section 11. SEMI-ANNUAL REPORTS. Each licensee, on or before the 31st day of July and 31st day of January of each year, shall file a report with the Commissioner for the preceding one-half (|) calendar year. Such report shall, if the Commission requests, list the name and address of each agent authorized by the licensee as of the close of business on the last day of the one-half (|) calendar year preceding such report, to engage in the sale of checks of which the licensee is the issuer. The Commissioner may require that such report include the annual dollar amount of checks sold by the licensee in the State of Arkansas during the preceding one-half (|) calendar year or the average amount of outstanding liabilities of such licensee from business for which he is licensed hereunder or both amounts. A filing fee of Twenty-Five Dollars (\$25.00) for each such report shall be paid at the time of filing."

SECTION 12. Section 12 of Act 124 of 1965, as amended, the same being Ark. Stat. Ann. §67-1912 [Repl. 1980], is hereby repealed.

SECTION 13. Section 13 of Act 124 of 1965, as amended, the same being Ark. Stat. Ann. §67-1913 [Repl. 1980], is hereby amended to read as follows:

"Section 13. AUDITED FINANCIAL STATEMENTS - EXAMINATIONS OF BOOKS AND RECORDS.

(a) Each licensee shall submit to the Commissioner on an annual basis an audited financial statement covering such licensee's most recent fiscal year end showing the financial condition of such licensee or owners thereof within ninety (90) days from the end of such licensee's fiscal year. The statement shall be in a form and prepared by an accountant acceptable to the Commissioner. A filing fee of Twenty-Five Dollars (\$25.00) shall accompany such statement at the time of filing.

(b) In addition to any other powers or authority conferred by this Act, and at such times as he may deem proper, the Commissioner shall have the authority to examine the books and records of any licensee and any other documents relevant to the conduct of the licensee's business to determine whether such business is being conducted in compliance with this Act. For purposes of such examinations, the Commissioner may enter upon any of the business premises of a licensee or his agents during normal business hours and request access to the relevant documents. Any obstruction or denial of such entry or access is a violation of this Act.

(c) The Commissioner shall charge and collect from the licensee a reasonable fee in an amount sufficient to cover the cost of any examination; provided however, that such fee shall not exceed the sum of One Hundred Dollars (\$100.00) per day for each examiner required for the examination, plus travel expenses when necessary or appropriate up to a maximum of a total of \$1,000.00 per year."

SECTION 14. Section 14 of Act 124 of 1965, as amended, the same being Ark. Stat. Ann. §67-1914 [Repl. 1980], is hereby amended to read as follows:

"Section 14. INVESTIGATIONS AND HEARINGS. POWER OF SUBPOENA.
CONFIDENTIAL COMMUNICATIONS.

(a) The Commissioner may conduct any necessary investigations and hearings to determine whether any licensee or other person has violated any of the provisions of this Act or whether any licensee has conducted himself in a manner which requires the suspension, revocation, or denial of renewal of his license.

(b) For the purposes of this Act, the Commissioner has power to require by subpoena the attendance and testimony of witnesses, and the production of all documentary evidence relating to any matter under hearing or investigation pursuant to this Act, and shall issue such subpoenas at the request of an interested party.

(c) In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Chancery Court of Pulaski County, upon application by the Commissioner, may issue to the person an order requiring him to appear before the Commissioner, or any employee of the Arkansas Securities Department designated by him, and there to produce documentary evidence if so ordered or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court shall be punished by the court as a contempt of court.

(d) The Commissioner may require any licensee to submit such reports concerning his business as the Commissioner deems necessary for the enforcement of this Act.

(e) Except as provided in Section 21(e) of this Act, all reports of investigations and examinations and other reports rendered pursuant to this Section, and all correspondence, memoranda or information relating to or arising therefrom, including any authenticated copies thereof in the possession of any licensee or the Commissioner, are confidential communications, are not subject to any subpoena, and shall not be made public unless the Commissioner determines that justice and the public advantage will be served by their publication. This subsection does not preclude any party to an administrative or judicial proceeding from introducing into evidence any information or document otherwise available or admissible.

(f) The Commissioner, subject to such restrictions as he in his discretion deems appropriate, may delegate to any appropriate staff member or other employee of the Arkansas Securities Department, the exercise or discharge in the Commissioner's name of any power, duty, or function, whether ministerial, discretionary or of whatever character, vested by this Act in the

Commissioner."

SECTION 15. Section 16 of Act 124 of 1965, as amended, the same being Ark. Stat. Ann. §67-1916 [Repl. 1980], is hereby amended to read as follows:

"Section 16. SUSPENSION OR REVOCATION OF LICENSE. NOTICE. HEARING. GROUNDS.

(a) The Commissioner may, upon fifteen (15) days' notice to the licensee, stating the contemplated action and in general the grounds therefor, hold a hearing at which the licensee shall have a reasonable opportunity to be heard, for the purpose of determining whether a license should be suspended or revoked for failure of the licensee to comply with the provisions of this Act and the regulations hereunder.

(b) At the conclusion of the hearing, the Commissioner shall enter an order either dismissing the charges, or suspending or revoking the license. Such suspension or revocation shall be effective from the date of entry of the order by the Commissioner or such other time as set forth therein.

(c) The grounds for suspension or revocation of a license are:

(1) any act or omission which would constitute grounds for denial of a license under Section 5(d) of this Act;

(2) failure of the licensee to maintain in effect the required bond or securities;

(3) a finding that the licensee is conducting its business in an unsafe or unsound manner;

(4) a finding that the licensee is insolvent;

(5) violation of any provision of this Act, any rule promulgated hereunder or any order issued by the Commissioner pursuant to this Act;

or

(6) the existence of any fact or condition which, had it existed at the time of the original application for a license, would have constituted grounds for denying such application for a license.

(d) If the Commissioner finds that it is necessary for the protection of the interests of purchasers or holders of checks issued by the licensee or for the protection of the public interest that he immediately suspend or revoke the license of such licensee, the Commissioner may issue an order summarily suspending or revoking the license of such licensee. Within thirty (30) days after an order is issued pursuant to this subsection, any licensee to whom

such order is issued may file with the Commissioner a written request for a hearing on the order. The Commissioner shall commence such hearing within fifteen (15) business days after such request is made. Within thirty (30) days after the hearing, the Commissioner shall affirm, modify or vacate the order.

(e) A licensee may surrender any license by delivering to the Commissioner written notice that he surrenders such license, but such surrender shall not affect such licensee's civil or criminal liability or liability on any bond, or entitle such licensee to a return of any part of any license fee.

(f) If a license is surrendered, suspended or revoked, the licensee shall immediately deposit in an account in the name of the Commissioner, an amount which is sufficient to make the total funds in the account equal to all outstanding checks sold or issued in the State of Arkansas and money or credits received but not transmitted."

SECTION 16. Section 17 of Act 124 of 1965, as amended, the same being Ark. Stat. Ann. §67-1917 [Repl. 1980], is hereby amended to read as follows:

"Section 17. DISCONTINUANCE OF LICENSEE'S BUSINESS. NOTICE. SURRENDER OF LICENSE. APPOINTMENT OF RECEIVER.

(a) Within five (5) days after a discontinuance of a licensee's business, he shall inform the Commissioner of the discontinuance and shall surrender his license for cancellation.

(b) If, as a result of any investigation, hearing, report or examination, the Commissioner finds that a licensee is insolvent or is conducting his business in such a manner as to render his further operations hazardous to the public, the Commissioner may, through an order served personally or by certified mail upon the licensee and any person known to the Commissioner to possess funds of the licensee or its customers, require the immediate discontinuance of the disbursement of the funds and the cessation of the licensee's business. The order shall remain in effect until it is set aside, in whole or in part by the Commissioner or otherwise modified.

(c) (1) Whenever a licensee has refused or is unable to pay its obligations generally as they become due or whenever it appears to the Commissioner that a licensee is in an unsafe or unsound condition, the Commissioner, or the Attorney General representing the Commissioner, may

apply to the Chancery Court of Pulaski County or of any county in which the licensee is located for the appointment of a receiver for the licensee. The court may require the receiver to post a bond in such amount as may appear necessary to protect claimants of the licensee.

(2) The receiver, subject to the approval of the court, shall take possession of the books, records, and assets of the licensee and shall take such action with respect to employees, agents, or representatives of the licensee or any other action as may be necessary to conserve the assets of the licensee or ensure payment of instruments issued by the licensee pending further disposition of its business as provided by law. The receiver shall sue and defend, compromise, and settle all claims involving the licensee and exercise such powers and duties as may be necessary and consistent with the laws of this State applicable to the appointment of receivers.

(3) The receiver from time to time but in no event less frequently than once each calendar quarter shall report to the court with respect to all acts and proceedings in connection with the receivership."

SECTION 17. Section 21 of Act 124 of 1965, as amended, the same being Ark. Stat. Ann. §67-1921 [Repl. 1980], is hereby amended to read as follows:

"Section 21. UNLAWFUL ACTS. PENALTY. OTHER REMEDIES.

(a) Any person is guilty of a class A misdemeanor who purposely:

(1) violates any provision of this Act, or any regulation adopted or order issued by the Commissioner pursuant to this Act with intent to defraud or deceive;

(2) makes any false or misleading statement of a material fact in any application, statement or report filed pursuant to this Act;

(3) omits to state any material fact necessary to provide the Commissioner with information lawfully required by him; or

(4) obstructs any lawful investigation, examination, entry or access by the Commissioner.

(b) Each day during which a violation continues constitutes a separate offense.

(c) The imposition of any fine or term of imprisonment pursuant to subsection (a):

(1) is in addition to any suspension, revocation or denial of a

license which may result from the violation;

(2) is not a bar to enforcement of this Act by an injunction or other appropriate civil remedy.

(d) For the purposes of venue for any civil or criminal action under this Act, any violation of this Act or of any rule, regulation or order promulgated hereunder shall be considered to have been committed in any county in which any act was performed in furtherance of the transaction which violated the Act, in any county in which the principal or an aider or abetter initiated or acted in furtherance of a course of conduct, in any county from which any violator gained control or possession of any proceeds of said violation or of any books, records, documents or other material or objects which were used in furtherance of said violation, or in any county from which or into which the violator directed any postal, telephonic, electronic or other communication in furtherance of said violation.

(e) The Commissioner may refer such evidence as is available concerning violations of this Act or any rule or order hereunder to any appropriate prosecuting or law enforcement authority.

(f) Nothing in this Act limits the power of the State to punish any person for any conduct which constitutes a crime by statute or common law."

SECTION 18. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 19. It is hereby found and determined that this Act is wholly inadequate to protect the citizens of the State of Arkansas from the potential or actual loss of millions of dollars as a result of the financial failure of issuers of money orders and travelers checks to citizens of this State. Therefore, in order to insure that the State has sufficient authority under this Act to license, oversee, supervise and discipline those persons who engage in such business, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from the date of its passage and approval.

/s/Jody Mahony