

**STATE OF MICHIGAN
DEPARTMENT OF ENERGY, LABOR AND ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE REGULATION**

Bulletin 2009- 08-CF

In the matter of:

**Licensing Requirement for Accelerated Payment Providers
Conducting Business within the State of Michigan**

**Issued and entered
this 8th day of April 2009
By Ken Ross
Commissioner**

The purpose of this bulletin is to clarify the applicability of the Money Transmission Services Act, 2006 PA 250, MCL 487.1001 to 487.1047 (Act) with respect to individuals and other entities providing Accelerated Payment Services in the State of Michigan

Overview

An Accelerated Payment Service Provider (“Provider”) typically receives regularly scheduled, partial payments from consumers, holds the payments, and remits funds to the lender by the due date of each consumer’s underlying obligation. These programs are designed to shorten the length of time it takes borrowers to repay mortgage or other consumer debt such as automobile, recreational vehicle, student or signature loans. The amount and frequency of the partial payments are generally structured to result in an accumulation of excess funds which are applied to the principal balance of the underlying obligation. For example, assume a consumer is obligated to pay a lender monthly principal and interest payments. The consumer may elect to pay one half of the monthly payment to the Provider every two weeks; this results in the equivalent of 13 monthly payments over the course of 12 months. The Provider then forwards the extra payment to the lender as an additional principal payment with the intention of reducing the time it will take to amortize the loan.

Authority

MCL 487.1003, Section 3(c) of the Act states, ““Money transmission services" means selling or issuing payment instruments or stored value devices or receiving money or monetary value for transmission.”

MCL 487.1004, Section 4 of the Act states, “This act does not apply to any of the following:

- (a) The United States or a department, agency, or instrumentality of the United States.
- (b) Money transmission services provided by the United States postal service or by a contractor on behalf of the United States postal service.
- (c) A state, county, city, or any other governmental subdivision of a state.
- (d) A depository financial institution, office of an international banking corporation, or branch of a foreign bank; a bank holding company or subsidiary, as those terms are defined in section 2(a)(1) and 2(d) of the bank holding company act of 1956, 12 USC 1841; a bank service company organized under the bank service company act, 12 USC 1861 to 1867; a subsidiary or affiliate of a depository financial institution, or a subsidiary or affiliate of a holding company of a depository financial institution, if the depository financial institution maintains its main office or a branch office in this state; a credit union service organization, as that term is defined in section 102 of the credit union act, 2003 PA 215, MCL 490.102; or a corporation organized under the Edge act, 12 USC 611 to 633.
- (e) Electronic funds transfer of governmental benefits for a federal, state, county, or governmental agency by a contractor on behalf of the United States or a department, agency, or instrumentality of the United States or a state or governmental subdivision, agency, or instrumentality of a state.
- (f) A board of trade designated as a contract market under the commodity exchange act, 7 USC 1 to 27f, or a person that in the ordinary course of business provides clearance and settlement services for a board of trade, to the extent of its operation as or for that board.
- (g) A registered futures commission merchant under the federal commodities laws, to the extent of its operation as a merchant.
- (h) A person that provides clearance or settlement services under a registration as a clearing agency or an exemption from registration granted under the federal securities laws, to the extent of its operation as a provider under this subdivision.
- (i) An operator of a payment system, to the extent that it provides processing, clearing, settlement, or other similar services between or among persons excluded by this section in connection with wire transfers, credit card transactions, debit card transactions, stored value transactions, automated clearinghouse transfers, or other similar funds transfers or transactions.
- (j) A person registered as a securities broker-dealer under federal or state securities laws, to the extent of its operation as a registered broker-dealer.”

MCL 487.1011, Section 11 of the Act states, “Except as otherwise provided in this section and subject to section 4, a person shall not provide money transmission services in this state after December 31, 2006 without a license under this act or a class I license issued under the consumer financial services act, 1988 PA 161, MCL 487.2051 to 487.2072.” This section also exempts persons acting as an authorized delegate of a licensee of the Money Transmission Services Act.

Penalties

MCL 487.1042, Section 42(3) of the Act states, “A person that knowingly engages in an activity for which a license is required under this act and is not licensed under this act is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$100,000.00, or both.”

MCL 487.1046, Section 46 of the Act states, “The commissioner may assess a civil fine against a person that violates this act, a rule promulgated or an order or ruling issued by the commissioner under this act, or any other applicable state or federal law in an amount that does not exceed \$10,000.00 per day for each day the violation continues, plus this state's costs and expenses for the investigation and prosecution of the matter, including reasonable attorney fees.”

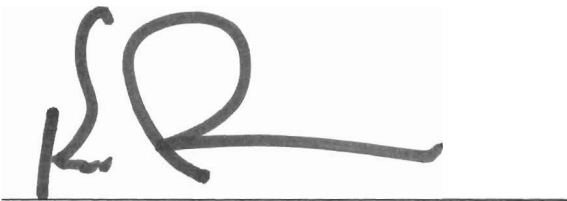
Conclusion

Accelerated Payment Providers receive money for transmission, and therefore engage in “money transmission services” as defined. Each individual or entity providing Accelerated Payment Services in the State of Michigan must obtain a money transmission services license unless specifically exempted under this statute. Persons and entities engaging in unlicensed activity may be subject to a felony and penalties as provided in the Act.

Information related to licensing procedures may be obtained with internet access at:
http://www.michigan.gov/dleg/0,1607,7-154-10555_22535_43095---,00.html

Any questions regarding this bulletin should be directed to:

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