

BILL ANALYSIS

C.S.H.B. 3233
By: Burrows
Investments & Financial Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that the law regulating money services businesses needs to be updated and that certain substantive changes should be enacted relating to such law. C.S.H.B. 3233 seeks to provide for such update and changes.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3233 amends the Finance Code to exclude from a requirement to be licensed under the Money Services Act a person engaged in the business of currency transportation who is both a registered motor carrier and a licensed armored car company or courier company under the Private Security Act, provided that the person only transports currency to a person from a financial institution after being withdrawn from an account belonging to the same person and does not otherwise engage in the money transmission or currency exchange business or depository agent services business without the appropriate license. The bill also excludes from such licensure requirement a trust company organized under state law. The bill replaces certain references to the Nationwide Mortgage Licensing System and Registry with references to the Nationwide Multistate Licensing System and Registry.

C.S.H.B. 3233 removes the authority of the Texas banking commissioner to exempt from the licensure requirements of the Money Services Act, on application and a finding that the exemption is in the public interest, a person that transmits money exclusively in connection with commercial contracts in interstate commerce or does not charge a fee to transmit money.

C.S.H.B. 3233 requires an applicant for a money transmission license to possess, and requires the holder of such a license to maintain at all times, a minimum net worth of \$500,000 computed in accordance with generally accepted accounting principles if business is proposed to be or is conducted, directly or through an authorized delegate, over the Internet. The bill requires at least 50 percent of such total net worth to be tangible net worth, calculated by subtracting the value of liabilities and intangible assets from the total value of all assets. The bill authorizes the banking commissioner to increase the amount of security required of an applicant who intends to provide, or a license holder who is providing, third-party bill payments in conjunction with loan acceleration services up to a total amount of \$2 million by multiplying the amount of security required by a factor of up to two if the commissioner determines, with respect to the applicant or

license holder, that a higher amount of the required security is necessary to achieve the purposes of the Money Services Act based on specified factors the commissioner uses to so determine that a higher net worth is necessary.

C.S.H.B. 3233 authorizes a cease and desist order issued by the banking commissioner to an unlicensed person to require a person who has engaged or is likely to engage in an activity for which a license is required under the Money Services Act to take affirmative action to correct any condition resulting from or contributing to the activity or violation, including the payment of restitution to each Texas resident damaged by the violation.

C.S.H.B. 3233 replaces the requirement that the trier of fact in a contested case hearing to assess an administrative penalty against a person under the Money Services Act recommend that the banking commissioner impose the maximum permitted administrative penalty on a person found to have demonstrated wilful disregard for the act's requirements, the rules adopted under the act, or an order issued under the act with an authorization for the trier of fact to so recommend imposition of such a penalty.

C.S.H.B. 3233 requires a person holding a money transmission license on September 1, 2017, who is not in compliance with the bill's net worth requirements to comply with those requirements not later than September 1, 2022, and to comply with the bill's security requirements not later than July 1, 2018. The bill authorizes the banking commissioner on written application and for good cause shown to extend the period for compliance with such net worth requirements.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3233 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Section 151.002(b), Finance Code, is amended.	SECTION 1. Same as introduced version.
SECTION 2. Section 151.003, Finance Code, as amended by Chapters 1000 (H.B. 483) and 75 (S.B. 899), Acts of the 84th Legislature, Regular Session, 2015, is reenacted and amended.	SECTION 2. Same as introduced version.
SECTION 3. The heading to Section 151.2031, Finance Code, is amended.	SECTION 3. Same as introduced version.
SECTION 4. Sections 151.2031(a) and (b), Finance Code, are amended.	SECTION 4. Same as introduced version.
SECTION 5. Section 151.302(c), Finance	SECTION 5. Same as introduced version.

Code, is amended.

SECTION 6. Section 151.304(b), Finance Code, is amended.

SECTION 7. Section 151.307, Finance Code, is amended.

SECTION 8. Section 151.308, Finance Code, is amended by amending Subsection (b) and adding Subsections (b-1) and (b-2) to read as follows:

(b) The amount of the required security is the greater of \$300,000 or an amount equal to one percent of the license holder's total yearly dollar volume of money transmission business in this state or the applicant's projected total volume of business in this state for the first year of licensure, up to a maximum of \$2 million.

(b-1) The commissioner may increase the amount of security required of an applicant who intends to provide, or a license holder who is providing, third-party bill payments in conjunction with loan acceleration services, up to a total amount of \$2 million, by multiplying the amount of security required by a factor of up to two, if the commissioner determines, with respect to the applicant or license holder, that a higher amount of the required security is necessary to achieve the purposes of this chapter based on the factors listed under Section 151.307(b).

(b-2) When the amount of the required security exceeds \$1 million, the applicant or license holder may, in the alternative, provide security in the amount of \$1 million, plus a dollar for dollar increase in the net worth of the applicant or license holder over the amount required under Section 151.307, up to a total amount of \$2 million.

SECTION 9. Section 151.702, Finance Code, is amended.

SECTION 10. The heading to Section 151.705, Finance Code, is amended.

SECTION 6. Same as introduced version.

SECTION 7. Same as introduced version.

SECTION 8. Section 151.308, Finance Code, is amended by amending Subsection (b) and adding Subsections (b-1) and (b-2) to read as follows:

(b) The amount of the required security is the greater of \$300,000 or an amount equal to one percent of the license holder's total yearly dollar volume of money transmission business in this state or the applicant's projected total volume of business in this state for the first year of licensure, up to a maximum of \$2 million.

(b-1) The commissioner may increase the amount of security required of an applicant who intends to provide, or a license holder who is providing, third-party bill payments in conjunction with loan acceleration services, up to a total amount of \$2 million, by multiplying the amount of security required under this section by a factor of up to two, if the commissioner determines, with respect to the applicant or license holder, that a higher amount of the required security is necessary to achieve the purposes of this chapter based on the factors listed under Section 151.307(b).

(b-2) When the amount of the required security exceeds \$1 million, the applicant or license holder may, in the alternative, provide security in the amount of \$1 million, plus a dollar for dollar increase in the net worth of the applicant or license holder over the amount required under Section 151.307, up to a total amount of \$2 million.

SECTION 9. Substantially the same as introduced version.

SECTION 10. Same as introduced version.

SECTION 11. Section 151.705(b), Finance Code, is amended to read as follows:

(b) A cease and desist order may require a license holder or authorized delegate to cease and desist from the action or violation and [ø] to take affirmative action to correct any condition resulting from or contributing to the action or violation, including the payment of restitution to each resident of this state damaged by the violation, and the requirements of the order may apply to a principal or responsible person of the license holder or authorized delegate.

SECTION 12. Section 151.707(d), Finance Code, is amended.

SECTION 13. (a) Sections 151.302, 151.304, 151.307, and 151.308, Finance Code, as amended by this Act, apply only to an application for a money transmission license submitted on or after the effective date of this Act. An application for a license submitted before the effective date of this Act is governed by the law in effect on the date the application was submitted, and the former law is continued in effect for that purpose.

(b) Not later than September 1, 2022, a person holding a money transmission license on September 1, 2017, shall comply with the net worth requirements of Section 151.307, Finance Code, as amended by this Act.

On written application and for good cause shown, the banking commissioner of Texas may extend the period for compliance under this section for the money transmission license holder.

(c) Not later than July 1, 2018, a person holding a money transmission license on September 1, 2017, shall comply with the security requirements of Section 151.308, Finance Code, as amended by this Act.

(d) Sections 151.702, 151.705, and 151.707, Finance Code, as amended by this Act, apply only to a violation that occurs on or after the effective date of this Act. A violation that occurs before that date is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

No equivalent provision.

SECTION 11. Same as introduced version.

SECTION 12. (a) Sections 151.304, 151.307, and 151.308, Finance Code, as amended by this Act, apply to a new application for a money transmission license only if the application was submitted on or after the effective date of this Act. An application for a license submitted before the effective date of this Act is governed by the law in effect on the date the application was submitted, and the former law is continued in effect for that purpose.

(b) A person holding a money transmission license on September 1, 2017, who is not in compliance with the net worth requirements of Section 151.307, Finance Code, as amended by this Act, shall comply with the net worth requirements of that section not later than September 1, 2022.

On written application and for good cause shown, the banking commissioner of Texas may extend the period for compliance under this section for the money transmission license holder.

(c) Not later than July 1, 2018, a person holding a money transmission license on September 1, 2017, shall comply with the security requirements of Section 151.308, Finance Code, as amended by this Act.

(d) Sections 151.702 and 151.707, Finance Code, as amended by this Act, apply only to a violation that occurs on or after the effective date of this Act. A violation that occurs before that date is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 14. This Act takes effect
September 1, 2017.

SECTION 13. Same as introduced version.