

BILL ANALYSIS

S.B. 1403
By: Campbell
Investments & Financial Services
Committee Report (Unamended)

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. S.B. 1403 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

S.B. 1403 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Security Act, provided that the person only transports currency to a person from a financial institution after being withdrawn from an account belonging to the same person and does not otherwise engage in the money transmission or currency exchange business or depository agent services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.

S.B. 1403 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.

S.B. 1403 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.

S.B. 1403 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.

S.B. 1403 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.

S.B. 1403 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.