

BILL ANALYSIS

Senate Research Center

S.B. 1403
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Business & Commerce
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Money Services Act establishes a licensing framework for money services businesses (MSBs), which are money transmitters and currency exchangers. Among other things, the Act excludes certain persons from licensure, requires MSBs to maintain minimum net worth and to provide a security bond, and provides several enforcement mechanisms.

S.B. 1403 enhances and clarifies sections that are currently causing confusion. The bill makes several minor substantive changes to the Act. It excludes state trust companies from licensure whose activities meet the definition of licensable money transmission. It enhances the net worth and security bond requirements to address emerging areas of increased consumer risk. Additionally S.B. 1403 authorizes the banking commissioner of Texas to order payment of restitution to harmed individuals. (Original Author's / Sponsor's Statement of Intent)

S.B. 1403 amends current law relating to the regulation of money services businesses.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 151.002(b), Finance Code, by adding Subdivision (20-a), to define "tangible net worth."

SECTION 2. Reenacts 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, and amends it, as follows:

Sec. 151.003. EXCLUSIONS. Provides that, subject to Subchapter J (Depository Agent License), the following persons are not required to be licensed under this chapter (Regulation of Money Services Businesses):

(1) through (8) makes no changes to these subdivisions;

(9) a person engaged in the business of currency transportation who is both a registered motor carrier under Chapter 643 (Motor Carrier Registration), Transportation Code, and a licensed armored car company or courier company under Chapter 1702 (Private Security), Occupations Code, provided that the person:

(A) only transports currency from a person to the same person at another location, from a person to a financial institution to be deposited in an account belonging to the same person, or to a person from a financial institution after being withdrawn from an account belonging to the same person. Makes nonsubstantive changes; and

(B) makes no changes to this paragraph;

(9-a) a trust company, as defined by Section 187.001(a) (relating to certain definitions, including "trust company"), that is organized under the laws of this state; and

(10) makes no changes to this subdivision.

SECTION 3. Amends the heading to Section 151.2031, Finance Code, to read as follows:

Sec. 151.2031. USE OF NATIONWIDE MULTISTATE LICENSING SYSTEM AND REGISTRY.

SECTION 4. Amends Sections 151.2031(a) and (b), Finance Code, to change references to Nationwide Mortgage Licensing System and Registry to Nationwide Multistate Licensing System and Registry.

SECTION 5. Amends Section 151.302(c), Finance Code, as follows:

(c) Authorizes the banking commissioner of Texas or a person designated by the banking commissioner and acting under the banking commissioner's direction and authority (commissioner), on application and a finding that the exemption is in the public interest, to exempt a person that:

(1) and (2) makes no changes to these subdivisions; and

(3) transmits money without a fee as an inducement for customer participation in the person's primary business, rather than either transmits money exclusively in connection with commercial contracts in interstate commerce or does not charge a fee to transmit money or transmits money without a fee as an inducement for customer participation in the person's primary business.

SECTION 6. Amends Section 151.304(b), Finance Code, to delete the provision that the security an applicant must file with the Texas Department of Banking be in the amount of \$300,000.

SECTION 7. Amends Section 151.307, Finance Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Requires an applicant for a money transmission license to possess, and a money transmission license holder to maintain at all times, a minimum net worth computed in accordance with generally accepted accounting principles of:

(1) makes no changes to this subdivision; or

(2) \$500,000, if business is proposed to be or is conducted, directly or through an authorized delegate, at five or more locations or over the Internet.

(c) Requires that at least 50 percent of the applicant's or license holder's total net worth be tangible net worth.

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

(b) Makes no changes to this subsection.

(b-1) Authorizes the 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 required security 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) (relating to authorizing the commissioner to increase the amount of net worth required of an applicant or license holder if the commissioner makes certain determinations).

(b-2) Creates this subsection from existing text and makes no further changes to this subsection.

SECTION 9. Amends Section 151.702, Finance Code, as follows:

Sec. 151.702. New heading: CEASE AND DESIST ORDERS FOR UNLICENSED PERSONS. (a) Creates this subsection from existing text and makes no further changes to this subsection.

(b) Authorizes a cease and desist order to require the unlicensed person to take affirmative action to correct any condition resulting from or contributing to the activity or violation, including the payment of restitution to each resident of this state damaged by the violation.

SECTION 10. Amends the heading to Section 151.705, Finance Code, to read as follows:

Sec. 151.705. CEASE AND DESIST ORDERS FOR LICENSE HOLDERS OR AUTHORIZED DELEGATES.

SECTION 11. Amends Section 151.707(d), Finance Code, to authorize, rather than require, the trier of fact to recommend that the commissioner impose the maximum administrative penalty permitted under Subsection (c) (relating to determining the amount of penalties).

SECTION 12. (a) Makes application of Sections 151.304, 151.307, and 151.308, Finance Code, as amended by this Act, prospective.

(b) Requires 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, to comply with the net worth requirements of that section not later than September 1, 2022. Authorizes the commissioner, on written application and for good cause shown, to extend the period for compliance for the money transmission license holder.

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

(d) Makes application of Sections 151.702 and 151.707, Finance Code, as amended by this Act, prospective.

SECTION 13. Effective date: September 1, 2017.