

By: Kolkhorst
(Schofield)

S.B. No. 1607

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting the imposition of a monetary fine or penalty for a violation of a money services business's terms of service agreement; providing a civil penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. (a) This section takes effect only if the Act of the 88th Legislature, Regular Session, 2023, relating to the regulation of money services businesses, does not become law.

(b) Subchapter E, Chapter 151, Finance Code, is amended by adding Section 151.406 to read as follows:

Sec. 151.406. PROHIBITION ON IMPOSITION OF FINE OR PENALTY FOR TERMS OF SERVICE VIOLATION. (a) A money transmission license holder may not include in the license holder's terms of service agreement a provision allowing or providing for a monetary fine or penalty for violating any provision of the terms of service agreement.

(b) This section may not be construed to prevent a money transmission license holder from closing a customer account as a result of a customer's violation of the license holder's terms of service agreement.

(c) In addition to any other relief provided for a violation of this chapter, a money transmission license holder that violates this section is liable to this state for a civil penalty in an amount equal to three times the amount of the fine or penalty

1 imposed by the license holder.

2 (d) The attorney general may bring an action in the name of
3 the state to recover the civil penalty under Subsection (c). The
4 attorney general may recover attorney's fees and costs incurred in
5 bringing an action under Subsection (c).

6 SECTION 2. (a) This section takes effect only if the Act of
7 the 88th Legislature, Regular Session, 2023, relating to the
8 regulation of money services businesses, becomes law.

9 (b) Subchapter G, Chapter 152, Finance Code, is amended by
10 adding Section 152.305 to read as follows:

11 Sec. 152.305. PROHIBITION ON IMPOSITION OF FINE OR PENALTY
12 FOR TERMS OF SERVICE VIOLATION. (a) A money transmission
13 licensee may not include in the licensee's terms of service
14 agreement a provision allowing or providing for a monetary fine or
15 penalty for violating any provision of the terms of service
16 agreement.

17 (b) This section may not be construed to prevent a money
18 transmission licensee from closing a customer account as a result
19 of a customer's violation of the licensee's terms of service
20 agreement.

21 (c) In addition to any other relief provided for a violation
22 of this chapter, a money transmission licensee that violates this
23 section is liable to this state for a civil penalty in an amount
24 equal to three times the amount of the fine or penalty imposed by
25 the licensee.

26 (d) The attorney general may bring an action in the name of
27 the state to recover the civil penalty under Subsection (c). The

1 attorney general may recover attorney's fees and costs incurred in
2 bringing an action under Subsection (c).

3 SECTION 3. This Act applies only to a terms of service
4 agreement entered into after the effective date of this Act. A
5 terms of service agreement entered into before the effective date
6 of this Act is governed by the law as it existed immediately before
7 the effective date of this Act, and the former law is continued in
8 effect for that purpose.

9 SECTION 4. This Act takes effect September 1, 2023.