

By: Perry

S.B. No. 2280

A BILL TO BE ENTITLED

AN ACT

relating to the exclusion of services provided by a marketplace provider from the definition of data processing services.

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

SECTION 1. Sections [151.0035](#)(b) and (c), Tax Code, are amended to read as follows:

(b) "Data processing service" does not include:

(1) the transcription of medical dictation by a medical transcriptionist;

(2) services exclusively to encrypt electronic payment information for acceptance onto a payment card network described by Subdivision (3)(E) to comply with standards set by the Payment Card Industry Security Standards Council; or

(3) settling of an electronic payment transaction by:

(A) a downstream payment processor or point of sale payment processor that routes electronic payment information to an entity described by Paragraph (C) or (E);

(B) a person who is engaged in the business of money transmission and required to obtain a license under Section [151.302](#)(a), Finance Code;

(C) a federally insured financial institution, as defined by Section [201.101](#), Finance Code, that is organized under the laws of this state, another state, or the United States, or an affiliate of the institution;

1 (D) a person who has entered into a sponsorship
2 agreement with an entity described by Paragraph (C) for the purpose
3 of settling that entity's electronic payment transactions through a
4 payment card network; or

5 (E) a payment card network that allows a person
6 to accept a specific brand of debit or credit card by routing
7 information and data to settle an electronic payment transaction.

8 (4) services provided by a marketplace provider in
9 relation to the processing of a sale or payment for a marketplace
10 seller, as those terms are defined in Section 151.0242.

11 (c) For purposes of Subsection (b)(3):

12 (1) "Downstream payment processor" means a person
13 described by 7 T.A.C. Section 33.4(c), as that provision existed on
14 January 1, 2021.

15 (2) "Point of sale payment processor" means a person
16 described by 7 T.A.C. Section 33.4(d), as that provision existed on
17 January 1, 2021.

18 (3) "Settling of an electronic payment transaction"
19 means the authorization, clearing, or funding of a payment made by
20 credit card, debit card, gift card, stored value card, electronic
21 check, virtual currency, loyalty program currency such as points or
22 miles, or a similar method. ~~The term does not include charges by a~~
23 ~~marketplace provider, as that term is defined by Section 151.0242.~~

24 SECTION 2. APPLICABILITY OF FORMER LAW. The change in law
25 made by this Act does not affect tax liability accruing before the
26 effective date of this Act. That liability continues in effect as if
27 this Act had not been enacted, and the former law is continued in

1 effect for the collection of taxes due and for civil and criminal
2 enforcement of the liability for those taxes.

3 SECTION 3. This Act takes effect October 1, 2023.