

By: Luna

H.B. No. 2345

A BILL TO BE ENTITLED

AN ACT

relating to the imposition of a fee for a currency transmission sent to a destination outside the United States.

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

SECTION 1. Section 278.001, Finance Code, is amended to read as follows:

Sec. 278.001. DEFINITIONS. Except as otherwise provided by Subchapter B or D, in [In] this chapter:

(1) "Currency" has the meaning assigned by Section 153.001.

(2) "Currency transmission business" means engaging in or offering currency transmission as a service or for profit. ~~[The term does not include:~~

~~[(A) a federally insured financial institution, as defined by Section 201.101, that is organized under the laws of this state, another state, or the United States; or~~

~~[(B) a title insurance company or title insurance agent, as defined by Article 9.02, Insurance Code.]~~

(3) "Currency transmission" means receiving currency or an instrument payable in currency in order to transmit the currency or its equivalent by wire, computer modem, facsimile, physical transport, or any other means or through the use of a financial intermediary, the Federal Reserve System, or another funds transfer network.

1 (4) "Fee" does not include revenue that a currency
2 transmission business generates in connection with a currency
3 transmission in the conversion of a currency of one government into
4 the currency of another government.

5 SECTION 2. Subchapter B, Chapter 278, Finance Code, is
6 amended by adding Section 278.054 to read as follows:

7 Sec. 278.054. APPLICABILITY. For purposes of this
8 subchapter, "currency transmission business" does not include:

9 (1) a federally insured financial institution, as
10 defined by Section 201.101, that is organized under the laws of this
11 state, another state, or the United States; or

12 (2) a title insurance company or title insurance
13 agent, as defined by Article 9.02, Insurance Code.

14 SECTION 3. Section 278.101(a), Finance Code, is amended to
15 read as follows:

16 (a) A person who knowingly violates Subchapter B [~~this~~
17 ~~chapter~~] is liable to the state for a civil penalty in an amount not
18 to exceed \$1,000 for each violation. The attorney general or the
19 prosecuting attorney in the county in which the violation occurs
20 may bring:

21 (1) a suit to recover the civil penalty imposed under
22 this section; and

23 (2) an action in the name of the state to restrain or
24 enjoin a person from violating Subchapter B [~~this chapter~~].

25 SECTION 4. Chapter 278, Finance Code, is amended by adding
26 Subchapter D to read as follows:

27 SUBCHAPTER D. CURRENCY TRANSMISSION FEE

1 Sec. 278.151. DEFINITIONS. In this subchapter:

2 (1) "Currency transmission" has the meaning assigned
3 by Section 153.001.

4 (2) "Currency transmission business" means a person
5 engaging in currency transmission as a service or for profit.

6 Sec. 278.152. FEE ON CERTAIN CURRENCY TRANSMISSIONS. (a) A
7 person that engages in currency transmission must impose a fee on
8 currency transmission destined from this state to a destination
9 outside the United States. The amount of the fee is one-half of one
10 percent of the total amount sent by currency transmission to a
11 destination outside the United States.

12 (b) A currency transmission business shall remit the fee
13 imposed by this section to the comptroller each quarter in the
14 manner prescribed by the comptroller.

15 (c) The comptroller shall adopt any necessary rules for the
16 administration, payment, collection, remittance, and enforcement
17 of the fee imposed by this section.

18 Sec. 278.153. TRUST ACCOUNT. The comptroller shall
19 deposit the fees collected by the comptroller under this subchapter
20 in trust in the separate suspense account of the county from which
21 the taxes were collected.

22 Sec. 278.154. DISTRIBUTION OF TRUST FUNDS. At least twice
23 during each state fiscal year and at other times as often as
24 feasible, the comptroller shall send to the county treasurer
25 payable to the county the county's share of the fees collected by
26 the comptroller under this subchapter.

27 Sec. 278.155. STATE'S SHARE. Before sending any money to a

1 county under this subchapter, the comptroller shall deduct two
2 percent of the amount of the fees collected within the county during
3 the period for which a distribution is made as the state's charge
4 for its services under this subchapter and shall credit the money
5 deducted to the general revenue fund.

6 Sec. 278.156. AMOUNTS RETAINED IN TRUST ACCOUNT. (a) The
7 comptroller may retain in the suspense account of a county a portion
8 of the county's share of the fee collected for the county under this
9 subchapter, not to exceed five percent of the amount remitted to the
10 county. If the fee is abolished or the law imposing the fee is
11 repealed, the amount that may be retained may not exceed five
12 percent of the final remittance to the county at the time of the
13 termination of the collection of the fee.

14 (b) From the amounts retained in a county's suspense
15 account, the comptroller may make refunds for overpayments to the
16 account and to redeem dishonored checks and drafts deposited to the
17 credit of the account.

18 Sec. 278.157. INTEREST ON TAX REVENUE. Interest earned on
19 all deposits made with the comptroller under this subchapter,
20 including interest earned from the suspense accounts retained under
21 Section 278.156, shall be credited to the general revenue fund.

22 Sec. 278.158. USE OF FEE REVENUE FOR INDIGENT HEALTH CARE.
23 (a) Except as provided by Subsection (b) or (c), the money received
24 by a county under this subchapter is for the use and benefit of the
25 county. The county shall use the money only for indigent health
26 care purposes.

27 (b) If the county has a countywide hospital district, the

1 money received by the county under this chapter is received only for
2 the use and benefit of the hospital district.

3 (c) If territory within the county is included in the
4 boundaries of one or more hospital districts that are not
5 countywide, the money received by the county under this subchapter
6 must be:

- 7 (1) used only for indigent health care purposes; and
8 (2) allocated between the county and a hospital
9 district located in the county according to the number of indigent
10 persons served by the county or a hospital district located in the
11 county during the preceding calendar year.

12 SECTION 5. The fees imposed under Subchapter D, Chapter
13 278, Finance Code, as added by this Act, apply only to currency
14 transmissions that occur on or after October 1, 2005.

15 SECTION 6. Not later than October 1, 2005, the comptroller
16 shall adopt rules as necessary to implement Subchapter D, Finance
17 Code, as added by this Act.

18 SECTION 7. This Act takes effect immediately if it receives
19 a vote of two-thirds of all the members elected to each house, as
20 provided by Section 39, Article III, Texas Constitution. If this
21 Act does not receive the vote necessary for immediate effect, this
22 Act takes effect September 1, 2005.