

1-1 By: Carona S.B. No. 1005
1-2 (In the Senate - Filed March 1, 2013; March 12, 2013, read
1-3 first time and referred to Committee on Business and Commerce;
1-4 March 20, 2013, reported favorably by the following vote: Yeas 9,
1-5 Nays 0; March 20, 2013, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	Carona	X		
1-9	Taylor	X		
1-10	Eltife	X		
1-11	Estes	X		
1-12	Hancock	X		
1-13	Lucio	X		
1-14	Van de Putte	X		
1-15	Watson	X		
1-16	Whitmire	X		

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to the regulation of money services businesses.
1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-21 SECTION 1. Subdivision (3), Subsection (b), Section
1-22 151.002, Finance Code, is amended to read as follows:
1-23 (3) "Bank Secrecy Act" means the Bank Secrecy Act (31
1-24 U.S.C. Section 5311 et seq.), and its implementing regulations [~~set~~
1-25 ~~forth at 31 C.F.R. Part 103~~].
1-26 SECTION 2. Subsection (a), Section 151.104, Finance Code,
1-27 is amended to read as follows:
1-28 (a) The commissioner may conduct investigations in or
1-29 outside this state and the United States as the commissioner
1-30 considers necessary or appropriate to administer and enforce this
1-31 chapter, including investigations to:
1-32 (1) determine whether to approve an application for
1-33 [~~or renewal of~~] a license or a request for approval or exemption
1-34 filed under this chapter or a rule adopted or order issued under
1-35 this chapter;
1-36 (2) determine whether a person has violated or is
1-37 likely to violate this chapter or a rule adopted or order issued
1-38 under this chapter;
1-39 (3) determine whether a license or authorized delegate
1-40 designation should be revoked or suspended;
1-41 (4) otherwise aid in the enforcement of this chapter
1-42 or a rule adopted or order issued under this chapter; and
1-43 (5) aid in the adoption of rules or issuance of orders
1-44 under this chapter.
1-45 SECTION 3. Section 151.105, Finance Code, is amended by
1-46 adding Subsection (b-1) to read as follows:
1-47 (b-1) To efficiently and effectively administer and enforce
1-48 this chapter and to minimize regulatory burden, the commissioner
1-49 may cooperate, coordinate, and share information with an
1-50 organization the membership of which is made up of state or federal
1-51 governmental agencies described by Subsection (a). The
1-52 commissioner may:
1-53 (1) enter into a written cooperation, coordination, or
1-54 information-sharing contract or agreement with the organization;
1-55 and
1-56 (2) share information, provided that the organization
1-57 agrees in writing to maintain the confidentiality and security of
1-58 the shared information.
1-59 SECTION 4. Subchapter C, Chapter 151, Finance Code, is
1-60 amended by adding Section 151.2031 to read as follows:
1-61 Sec. 151.2031. USE OF NATIONWIDE MORTGAGE LICENSING SYSTEM

2-1 AND REGISTRY. (a) In this section, "Nationwide Mortgage Licensing
 2-2 System and Registry" or "nationwide registry" means a licensing
 2-3 system developed and maintained by the Conference of State Bank
 2-4 Supervisors or an affiliated organization to manage mortgage
 2-5 licenses and other financial services licenses, or a successor
 2-6 registry.

2-7 (b) The commissioner may require that a person submit
 2-8 through the Nationwide Mortgage Licensing System and Registry in
 2-9 the form and manner prescribed by the commissioner and acceptable
 2-10 to the registry any information or document or payment of a fee
 2-11 required to be submitted under this chapter or rules adopted under
 2-12 this chapter.

2-13 (c) The commissioner may use the nationwide registry as a
 2-14 channeling agent for obtaining information required for licensing
 2-15 purposes under this chapter or rules adopted under this chapter,
 2-16 including:

2-17 (1) criminal history record information from the
 2-18 Federal Bureau of Investigation, the United States Department of
 2-19 Justice, or any other agency or entity at the commissioner's
 2-20 discretion;

2-21 (2) information related to any administrative, civil,
 2-22 or criminal findings by a governmental jurisdiction; and

2-23 (3) information requested by the commissioner under
 2-24 Section 151.203(a)(3).

2-25 SECTION 5. The heading to Section 151.207, Finance Code, is
 2-26 amended to read as follows:

2-27 Sec. 151.207. CONTINUATION [~~RENEWAL~~] OF LICENSE; ANNUAL
 2-28 REPORT AND FEE.

2-29 SECTION 6. Subsections (a), (b), (c), (d), (e), and (f),
 2-30 Section 151.207, Finance Code, are amended to read as follows:

2-31 (a) ~~If a [Regardless of the date on which a license under~~
 2-32 ~~this chapter is issued, the license expires on August 15 of each~~
 2-33 ~~year unless the license is renewed in accordance with this section~~
 2-34 ~~or is previously surrendered by the license holder or suspended or~~
 2-35 ~~revoked by the commissioner.~~

2-36 [~~(b) As a condition of renewal, a~~] license holder does not
 2-37 [must] continue to meet [possess] the qualifications or [and]
 2-38 satisfy the requirements that apply to an applicant for a new money
 2-39 transmission license or currency exchange license, as applicable,
 2-40 the commissioner may suspend or revoke the license holder's
 2-41 license.

2-42 (b) In addition to complying with Subsection (a)
 2-43 [Additionally, not later than July 1 of each year], a license holder
 2-44 must annually:

2-45 (1) pay a license [an annual renewal] fee in an amount
 2-46 established by commission rule; and

2-47 (2) submit a [renewal] report that is under oath, is in
 2-48 the form and medium required by the commissioner, and contains:

2-49 (A) if the license is a money transmission
 2-50 license, an audited unconsolidated financial statement dated as of
 2-51 the last day of the license holder's fiscal year that ended in the
 2-52 immediately preceding calendar year;

2-53 (B) if the license is a currency exchange
 2-54 license, a financial statement, audited or unaudited, dated as of
 2-55 the last day of the license holder's fiscal year that ended in the
 2-56 immediately preceding calendar year; and

2-57 (C) documentation and certification, or any
 2-58 other information the commissioner reasonably requires to
 2-59 determine the security, net worth, permissible investments, and
 2-60 other requirements the license holder must satisfy and whether the
 2-61 license holder continues to meet the qualifications and
 2-62 requirements for licensure.

2-63 (c) If the department does not receive a license holder's
 2-64 annual license [renewal] fee and complete annual [renewal] report
 2-65 on or before the due date prescribed by the commissioner under this
 2-66 section [July 1], the commissioner shall notify the license holder
 2-67 in writing that:

2-68 (1) the license holder shall [has until August 15 to]
 2-69 submit the [renewal] report and pay the license [renewal] fee not

3-1 later than the 45th day after the due date prescribed by the
 3-2 commissioner; and

3-3 (2) the license holder must pay a late fee, in an
 3-4 amount that is established by commission rule and not subject to
 3-5 appeal, for each business day after the report due date specified by
 3-6 the commissioner [July 1] that the commissioner does not receive
 3-7 the completed ~~[renewal]~~ report and license [renewal] fee.

3-8 (d) If the license holder fails to submit the completed
 3-9 annual [renewal] report and pay the annual license [renewal] fee
 3-10 and any late fee due within the time prescribed by Subsection
 3-11 (c)(1), the license expires [effective 5 p.m. central daylight time
 3-12 on August 15], and the license holder must cease and desist from
 3-13 engaging in the business of money transmission or currency
 3-14 exchange, as applicable, as of that date [time]. The expiration of
 3-15 a license is not subject to appeal.

3-16 (e) On timely receipt of a license holder's complete annual
 3-17 [renewal] report, annual license [renewal] fee, and any late fee
 3-18 due, the department shall review the report and, if necessary,
 3-19 investigate the business and records of the license holder. On
 3-20 completion of the review and investigation, if any, the
 3-21 commissioner may:

3-22 (1) ~~[renew the license,~~
 3-23 ~~[(2)]~~ impose conditions on the ~~[renewal of the]~~
 3-24 license the commissioner considers ~~[may consider]~~ reasonably
 3-25 necessary or appropriate; or

3-26 (2) ~~[(3)]~~ suspend or revoke the license on the basis
 3-27 of a ground specified in Section 151.703.

3-28 (f) On written application and for good cause shown, the
 3-29 commissioner may extend the due date [time] for filing the annual
 3-30 license fee and annual report required under this section.

3-31 SECTION 7. Subsection (c), Section 151.208, Finance Code,
 3-32 is amended to read as follows:

3-33 (c) The surrender of a license does not reduce or eliminate
 3-34 a license holder's civil or criminal liability arising from any
 3-35 acts or omissions before the surrender of the license, including
 3-36 any administrative action undertaken by the commissioner to ~~[deny~~
 3-37 ~~the renewal of a license, to]~~ revoke or suspend a license, to assess
 3-38 an administrative penalty, to order the payment of restitution, or
 3-39 to exercise any other authority under this chapter. Further, the
 3-40 surrender of a license does not release the security required of the
 3-41 license holder under Section 151.308 or 151.506.

3-42 SECTION 8. Section 151.209, Finance Code, is amended to
 3-43 read as follows:

3-44 Sec. 151.209. REFUNDS. A fee or cost paid under this
 3-45 chapter ~~[in connection with an application or renewal]~~ is not
 3-46 refundable.

3-47 SECTION 9. Subdivision (8), Subsection (b), Section
 3-48 151.301, Finance Code, is amended to read as follows:

3-49 (8) "Stored value" means monetary value evidenced by
 3-50 an electronic record that is prefunded and for which value is
 3-51 reduced on each use. The term includes prepaid access as defined by
 3-52 31 C.F.R. Section 1010.100(w). The term does not include an
 3-53 electronic record that is:

3-54 (A) loaded with points, miles, or other
 3-55 nonmonetary value; ~~[or]~~

3-56 (B) not sold to the public but distributed as a
 3-57 reward or charitable donation; or

3-58 (C) redeemable only for goods or services from a
 3-59 specified merchant or set of affiliated merchants, such as:

3-60 (i) a specified retailer or retail chain;

3-61 (ii) a set of affiliated companies under
 3-62 common ownership;

3-63 (iii) a college campus; or

3-64 (iv) a mass transportation system.

3-65 SECTION 10. Subsection (b), Section 151.306, Finance Code,
 3-66 is amended to read as follows:

3-67 (b) The effective period for a temporary license may not
 3-68 exceed 90 days from the date the license is issued, provided that
 3-69 the commissioner may extend the period for not more than an

4-1 additional 90 [~~30~~] days if necessary to complete the processing of a
4-2 timely filed application for which approval is likely.

4-3 SECTION 11. Subsection (c), Section 151.308, Finance Code,
4-4 is amended to read as follows:

4-5 (c) The security must:
4-6 (1) be in a form satisfactory to the commissioner;
4-7 (2) be payable to any claimant or to the commissioner,
4-8 on behalf of a claimant or this state, for any liability arising out
4-9 of the license holder's money transmission business in this state,
4-10 incurred under, subject to, or by virtue of this chapter; and

4-11 ~~(3) [be conditioned on the faithful compliance of the~~
4-12 ~~license holder or the principals, responsible individuals,~~
4-13 ~~employees and authorized delegates of the license holder with this~~
4-14 ~~chapter or any rule adopted or order issued under this chapter; and~~

4-15 ~~[(4)]~~ if the security is a bond, be issued by a
4-16 qualified surety company authorized to engage in business in this
4-17 state and acceptable to the commissioner or, if the security is an
4-18 irrevocable letter of credit, be issued by a financial institution
4-19 acceptable to the commissioner.

4-20 SECTION 12. Section 151.401, Finance Code, is amended to
4-21 read as follows:

4-22 Sec. 151.401. LIABILITY OF LICENSE HOLDER. A money
4-23 transmission license holder is liable for the payment of all money
4-24 or monetary value received for transmission ~~[either]~~ directly or by
4-25 ~~[through]~~ an authorized delegate appointed in accordance with
4-26 Section 151.402.

4-27 SECTION 13. Subsections (e) and (f), Section 151.402,
4-28 Finance Code, are amended to read as follows:

4-29 (e) A license holder must notify the license holder's
4-30 authorized delegates and require the delegates to take any action
4-31 required by the commissioner if ~~[the license holder]~~:

4-32 (1) the license holder's license expired or is
4-33 surrendered or revoked ~~[fails to renew the license holder's~~
4-34 ~~license]; or~~

4-35 (2) the license holder is subject to an emergency or
4-36 final order that affects the conduct of the license holder's
4-37 business through an authorized delegate.

4-38 (f) A license holder must maintain a current list of
4-39 authorized delegates located in this state or doing business with
4-40 persons located in this state that includes the name and business
4-41 address of each delegate and must provide the list to the
4-42 commissioner on request. A license holder that engages in business
4-43 through 11 or more authorized delegates located in this state must
4-44 include on the license holder's website a list of the names and
4-45 addresses of the authorized delegates of the license holder located
4-46 in this state and the delegates' business addresses. The license
4-47 holder must update the list quarterly.

4-48 SECTION 14. Subsection (b), Section 151.501, Finance Code,
4-49 is amended by amending Subdivision (2) and adding Subdivision (3)
4-50 to read as follows:

4-51 (2) "Currency exchange" means:
4-52 (A) receiving ~~[exchanging]~~ the currency of one
4-53 government and exchanging it for the currency of another
4-54 government; or

4-55 (B) receiving a negotiable instrument and
4-56 exchanging it for the currency of another government.

4-57 (3) "Negotiable instrument" has the meaning assigned
4-58 by Section 3.104, Business & Commerce Code.

4-59 SECTION 15. Subsections (a), (b), and (c), Section 151.603,
4-60 Finance Code, are amended to read as follows:

4-61 (a) An applicant or license holder shall file a written
4-62 report with the commissioner not later than the 15th day after the
4-63 date the applicant or license holder knows or has reason to know of
4-64 a material change in the information reported in an application or
4-65 annual ~~[renewal]~~ report required under Section 151.207(b)(2). The
4-66 report must describe the change and the anticipated impact of the
4-67 change on the activities of the applicant or license holder in this
4-68 state.

4-69 (b) A money transmission license holder shall prepare

5-1 written reports and statements as follows:

5-2 (1) the annual [~~renewal~~] report required by Section
5-3 151.207(b)(2), including an audited unconsolidated financial
5-4 statement that is dated as of the last day of the license holder's
5-5 fiscal year that ended in the immediately preceding calendar year;

5-6 (2) a quarterly interim financial statement and report
5-7 regarding the permissible investments required to be maintained
5-8 under Section 151.309 that reflect the license holder's financial
5-9 condition and permissible investments as of the last day of the
5-10 calendar quarter to which the statement and report relate and that
5-11 are prepared not later than the 45th day after the last day of the
5-12 calendar quarter; and

5-13 (3) any other report required by rule of the
5-14 commission or reasonably requested by the commissioner to determine
5-15 compliance with this chapter.

5-16 (c) A currency exchange license holder shall prepare a
5-17 written report or statement as follows:

5-18 (1) the annual [~~renewal~~] report required by Section
5-19 151.207(b)(2), including a financial statement that may be audited
5-20 or unaudited and that is dated as of the last day of the license
5-21 holder's fiscal year that ended in the immediately preceding
5-22 calendar year;

5-23 (2) a quarterly interim financial statement and
5-24 transaction report that reflects the license holder's financial
5-25 condition and currency exchange business as of the last day of the
5-26 calendar quarter to which the statement and report relate and that
5-27 are prepared not later than the 45th day after the last day of the
5-28 calendar quarter; and

5-29 (3) any other report required by rule of the
5-30 commission or reasonably requested by the commissioner to determine
5-31 compliance with this chapter.

5-32 SECTION 16. Subsection (a), Section 151.604, Finance Code,
5-33 is amended to read as follows:

5-34 (a) A license holder shall file a written report with the
5-35 commissioner not later than the 15th day after the date the license
5-36 holder knows or has reason to know of a material change in the
5-37 information reported in an application or annual [~~renewal~~]
5-38 report required under Section 151.207(b)(2). The report must describe
5-39 the change and the anticipated impact of the change on the license
5-40 holder's activities in this state.

5-41 SECTION 17. Subdivision (1), Section 278.001, Finance Code,
5-42 is amended to read as follows:

5-43 (1) "Currency" has the meaning assigned by Section
5-44 151.501 [~~153.001~~].

5-45 SECTION 18. Section 278.053, Finance Code, is repealed.

5-46 SECTION 19. As soon as practicable after the effective date
5-47 of this Act, the Finance Commission of Texas shall adopt rules
5-48 necessary to implement the changes in law made by this Act.

5-49 SECTION 20. Subsection (a), Section 151.104, Finance Code,
5-50 as amended by this Act, applies only to an investigation commenced
5-51 on or after the effective date of this Act. An investigation
5-52 commenced before the effective date of this Act is governed by the
5-53 law in effect on the date the investigation was commenced, and the
5-54 former law is continued in effect for that purpose.

5-55 SECTION 21. This Act takes effect September 1, 2013.

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