

By: Eltife

S.B. No. 899

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the regulation of money services businesses; affecting  
3 the prosecution of a criminal offense.

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

5 SECTION 1. Section [151.003](#), Finance Code, is amended to  
6 read as follows:

7 Sec. 151.003. EXCLUSIONS. The following persons are not  
8 required to be licensed under this chapter:

9 (1) the United States or an instrumentality of the  
10 United States, including the United States Post Office or a  
11 contractor acting on behalf of the United States Post Office;

12 (2) a state or an agency, political subdivision, or  
13 other instrumentality of a state;

14 (3) a federally insured financial institution, as that  
15 term is defined by Section [201.101](#), that is organized under the laws  
16 of this state, another state, or the United States;

17 (4) a foreign bank branch or agency in the United  
18 States established under the federal International Banking Act of  
19 1978 (12 U.S.C. Section 3101 et seq.);

20 (5) a person acting as an agent for an entity excluded  
21 under Subdivision (3) or (4), to the extent of the person's actions  
22 in that capacity, provided that:

23 (A) the entity is liable for satisfying the money  
24 services obligation owed to the purchaser on the person's receipt

1 of the purchaser's money; and

2 (B) the entity and person enter into a written  
3 contract that appoints the person as the entity's agent and the  
4 person acts only within the scope of authority conferred by the  
5 contract;

6 (6) a person that, on behalf of the United States or a  
7 department, agency, or instrumentality of the United States, or a  
8 state or county, city, or any other governmental agency or  
9 political subdivision of a state, provides electronic funds  
10 transfer services of governmental benefits for a federal, state,  
11 county, or local governmental agency;

12 (7) a person that acts as an intermediary on behalf of  
13 and at the direction of a license holder in the process by which the  
14 license holder, after receiving money or monetary value from a  
15 purchaser, either directly or through an authorized delegate,  
16 transmits the money or monetary value to the purchaser's designated  
17 recipient, provided that the license holder is liable for  
18 satisfying the obligation owed to the purchaser;

19 (8) an attorney or title company that in connection  
20 with a real property transaction receives and disburses domestic  
21 currency or issues an escrow or trust fund check only on behalf of a  
22 party to the transaction;

23 (9) a person engaged in the business of currency  
24 transportation who is both a registered motor carrier under Chapter  
25 643, Transportation Code, and a licensed armored car company or  
26 courier company under Chapter 1702, Occupations Code, provided that  
27 the person:

1                   (A) only transports currency from a person to:  
2                   (i) the same person at another location; or  
3                   (ii) a financial institution to be  
4 deposited in an account belonging to the same person; and

5                   (B) does not otherwise engage in the money  
6 transmission or currency exchange business without a license issued  
7 under this chapter; and

8                   (10) any other person, transaction, or class of  
9 persons or transactions exempted by commission rule or any other  
10 person or transaction exempted by the commissioner's order on a  
11 finding that the licensing of the person is not necessary to achieve  
12 the purposes of this chapter.

13                   SECTION 2. Sections 151.302(a) and (b), Finance Code, are  
14 amended to read as follows:

15                   (a) A person may not engage in the business of money  
16 transmission in this state or advertise, solicit, or represent  
17 [~~hold itself out as a person~~] that the person engages in the  
18 business of money transmission in this state unless the person:

19                   (1) is licensed under this subchapter;

20                   (2) is an authorized delegate of a person licensed  
21 under this subchapter, appointed by the license holder in  
22 accordance with Section 151.402;

23                   (3) is excluded from licensure under Section 151.003;

24 or

25                   (4) has been granted an exemption under Subsection  
26 (c).

27                   (b) For purposes of this chapter, +

1           ~~[(1)]~~ a person engages in the business of money  
2 transmission if the person [~~conducts money transmission for persons~~  
3 ~~located in this state and~~] receives compensation or expects to  
4 receive compensation, directly or indirectly, for conducting money  
5 transmission [~~the transmissions, and~~  
6           ~~[(2)]~~ a person solicits, advertises, or holds itself  
7 out as a person that engages in the business of money transmission  
8 if the person represents that the person will conduct money  
9 transmission for persons located in this state].

10           SECTION 3. Section 151.504(b), Finance Code, is amended to  
11 read as follows:

12           (b) At the time an application for a currency exchange  
13 license is submitted, an applicant must file with the department:

14           (1) an application fee in the amount established by  
15 commission rule; and

16           (2) security in the amount required under [~~of \$2,500~~  
17 ~~that meets the requirements of~~] Section 151.506.

18           SECTION 4. Section 151.506, Finance Code, is amended to  
19 read as follows:

20           Sec. 151.506. SECURITY. (a) An applicant for a currency  
21 exchange license must provide and a currency exchange license  
22 holder must maintain at all times security in the amount applicable  
23 to the applicant or license holder under this section. The security  
24 must satisfy [~~of \$2,500 that satisfies~~] the requirements of and is  
25 subject to Sections 151.308(c)-(j).

26           (b) An applicant must provide and a license holder must  
27 maintain security in the amount of \$2,500 if the applicant will

1 conduct or the license holder conducts business with persons  
2 located in this state exclusively at one or more physical locations  
3 through in-person, contemporaneous transactions.

4 (c) Except as provided by Subsection (d), if Subsection (b)  
5 does not apply to:

6 (1) the applicant, the applicant must provide security  
7 in the amount that is the greater of:

8 (A) \$2,500; or

9 (B) an amount equal to one percent of the  
10 applicant's projected total dollar volume of currency exchange  
11 business in this state for the first year of licensure; or

12 (2) the license holder, the license holder must  
13 maintain security in the amount that is the greater of:

14 (A) \$2,500; or

15 (B) an amount equal to one percent of the license  
16 holder's total dollar volume of currency exchange business in this  
17 state for the preceding year.

18 (d) The maximum amount of security that may be required  
19 under Subsection (c) is \$1 million.

20 SECTION 5. Section 151.605(g), Finance Code, is amended to  
21 read as follows:

22 (g) The following persons are exempt from the requirements  
23 of Subsection (a), but the license holder must notify the  
24 commissioner not later than the 15th day after the date the change  
25 of control becomes effective:

26 (1) a person that acts as proxy for the sole purpose of  
27 voting at a designated meeting of the security holders or holders of

1 voting interests of a license holder or controlling person;

2 (2) a person that acquires control of a license holder  
3 by devise or descent;

4 (3) ~~[a person that acquires control as a personal  
5 representative, custodian, guardian, conservator, or trustee, or  
6 as an officer appointed by a court or by operation of law;~~

7 ~~[(4)]~~ a person exempted in the public interest by rule  
8 of the commission or by order of the commissioner; and

9 (4) ~~[(5)]~~ a person that has previously complied with  
10 and received approval under this chapter or that was identified as a  
11 person in control in a prior application filed with and approved by  
12 the commissioner.

13 SECTION 6. Section 151.708(c), Finance Code, is amended to  
14 read as follows:

15 (c) An offense under this section may be prosecuted in ~~[If  
16 the commissioner has reason to believe that a person has committed  
17 an offense under this section or any other state or federal law, the  
18 commissioner may file a criminal referral with the district  
19 attorney of] Travis County or in [an appropriate prosecuting  
20 attorney of] the county in which the offense is alleged to have been  
21 committed.~~

22 SECTION 7. Section 151.301(b)(7), Finance Code, is  
23 repealed.

24 SECTION 8. Section 151.605, Finance Code, as amended by  
25 this Act, applies only to a person that acquires control of a  
26 license holder under that section as a personal representative,  
27 custodian, guardian, conservator, or trustee or as an officer

1 appointed by a court or by operation of law on or after the  
2 effective date of this Act. A person that acquired control of a  
3 license holder as a personal representative, custodian, guardian,  
4 conservator, or trustee or as an officer appointed by a court or by  
5 operation of law before the effective date of this Act is governed  
6 by the law in effect on the date the person acquired control, and  
7 the former law is continued in effect for that purpose.

8 SECTION 9. Section [151.708\(c\)](#), Finance Code, as amended by  
9 this Act, applies only to an offense committed on or after the  
10 effective date of this Act. An offense committed before the  
11 effective date of this Act is governed by the law in effect when the  
12 offense was committed, and the former law is continued in effect for  
13 that purpose. For purposes of this section, an offense was  
14 committed before the effective date of this Act if any element of  
15 the offense occurred before that date.

16 SECTION 10. This Act takes effect September 1, 2015.