

1-1 By: Campbell S.B. No. 1403  
 1-2 (In the Senate - Filed March 7, 2017; March 16, 2017, read  
 1-3 first time and referred to Committee on Business & Commerce;  
 1-4 April 11, 2017, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 9, Nays 0; April 11, 2017,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1403 By: Campbell

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to the regulation of money services businesses.  
 1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
 1-23 SECTION 1. Section 151.002(b), Finance Code, is amended by  
 1-24 adding Subdivision (20-a) to read as follows:  
 1-25 (20-a) "Tangible net worth" means the total value of  
 1-26 all assets, minus any liabilities and intangible assets.  
 1-27 SECTION 2. Section 151.003, Finance Code, as amended by  
 1-28 Chapters 1000 (H.B. 483) and 75 (S.B. 899), Acts of the 84th  
 1-29 Legislature, Regular Session, 2015, is reenacted and amended to  
 1-30 read as follows:  
 1-31 Sec. 151.003. EXCLUSIONS. Subject to Subchapter J, the  
 1-32 following persons are not required to be licensed under this  
 1-33 chapter:  
 1-34 (1) the United States or an instrumentality of the  
 1-35 United States, including the United States Post Office or a  
 1-36 contractor acting on behalf of the United States Post Office;  
 1-37 (2) a state or an agency, political subdivision, or  
 1-38 other instrumentality of a state;  
 1-39 (3) a federally insured financial institution, as that  
 1-40 term is defined by Section 201.101, that is organized under the laws  
 1-41 of this state, another state, or the United States;  
 1-42 (4) a foreign bank branch or agency in the United  
 1-43 States established under the federal International Banking Act of  
 1-44 1978 (12 U.S.C. Section 3101 et seq.);  
 1-45 (5) a person acting as an agent for an entity excluded  
 1-46 under Subdivision (3) or (4), to the extent of the person's actions  
 1-47 in that capacity, provided that:  
 1-48 (A) the entity is liable for satisfying the money  
 1-49 services obligation owed to the purchaser on the person's receipt  
 1-50 of the purchaser's money; and  
 1-51 (B) the entity and person enter into a written  
 1-52 contract that appoints the person as the entity's agent and the  
 1-53 person acts only within the scope of authority conferred by the  
 1-54 contract;  
 1-55 (6) a person that, on behalf of the United States or a  
 1-56 department, agency, or instrumentality of the United States, or a  
 1-57 state or county, city, or any other governmental agency or  
 1-58 political subdivision of a state, provides electronic funds  
 1-59 transfer services of governmental benefits for a federal, state,  
 1-60 county, or local governmental agency;

2-1 (7) a person that acts as an intermediary on behalf of  
2-2 and at the direction of a license holder in the process by which the  
2-3 license holder, after receiving money or monetary value from a  
2-4 purchaser, either directly or through an authorized delegate,  
2-5 transmits the money or monetary value to the purchaser's designated  
2-6 recipient, provided that the license holder is liable for  
2-7 satisfying the obligation owed to the purchaser;

2-8 (8) an attorney or title company that in connection  
2-9 with a real property transaction receives and disburses domestic  
2-10 currency or issues an escrow or trust fund check only on behalf of a  
2-11 party to the transaction;

2-12 (9) a person engaged in the business of currency  
2-13 transportation who is both a registered motor carrier under Chapter  
2-14 643, Transportation Code, and a licensed armored car company or  
2-15 courier company under Chapter 1702, Occupations Code, provided that  
2-16 the person:

2-17 (A) only transports currency [~~from a person to~~]:  
2-18 (i) from a person to the same person at  
2-19 another location; [~~or~~]

2-20 (ii) from a person to a financial  
2-21 institution to be deposited in an account belonging to the same  
2-22 person; or

2-23 (iii) to a person from a financial  
2-24 institution after being withdrawn from an account belonging to the  
2-25 same person; and

2-26 (B) does not otherwise engage in the money  
2-27 transmission or currency exchange business or depository agent  
2-28 services business without a license issued under this chapter;

2-29 (9-a) a trust company, as defined by Section  
2-30 187.001(a), that is organized under the laws of this state; and

2-31 (10) any other person, transaction, or class of  
2-32 persons or transactions exempted by commission rule or any other  
2-33 person or transaction exempted by the commissioner's order on a  
2-34 finding that the licensing of the person is not necessary to achieve  
2-35 the purposes of this chapter.

2-36 SECTION 3. The heading to Section 151.2031, Finance Code,  
2-37 is amended to read as follows:

2-38 Sec. 151.2031. USE OF NATIONWIDE MULTISTATE [~~MORTGAGE~~]  
2-39 LICENSING SYSTEM AND REGISTRY.

2-40 SECTION 4. Sections 151.2031(a) and (b), Finance Code, are  
2-41 amended to read as follows:

2-42 (a) In this section, "Nationwide Multistate [~~Mortgage~~]  
2-43 Licensing System and Registry" or "nationwide registry" means a  
2-44 licensing system developed and maintained by the Conference of  
2-45 State Bank Supervisors or an affiliated organization to manage  
2-46 mortgage licenses and other financial services licenses, or a  
2-47 successor registry.

2-48 (b) The commissioner may require that a person submit  
2-49 through the Nationwide Multistate [~~Mortgage~~] Licensing System and  
2-50 Registry in the form and manner prescribed by the commissioner and  
2-51 acceptable to the registry any information or document or payment  
2-52 of a fee required to be submitted under this chapter or rules  
2-53 adopted under this chapter.

2-54 SECTION 5. Section 151.302(c), Finance Code, is amended to  
2-55 read as follows:

2-56 (c) On application and a finding that the exemption is in  
2-57 the public interest, the commissioner may exempt a person that:

2-58 (1) incidentally engages in the money transmission  
2-59 business only to the extent reasonable and necessary to accomplish  
2-60 a primary business objective unrelated to the money transmission  
2-61 business;

2-62 (2) does not advertise or offer money transmission  
2-63 services to the public except to the extent reasonable and  
2-64 necessary to fairly advertise or offer the person's primary  
2-65 business services; and

2-66 (3) [~~either transmits money exclusively in connection~~  
2-67 ~~with commercial contracts in interstate commerce or does not charge~~  
2-68 ~~a fee to transmit money or~~] transmits money without a fee as an  
2-69 inducement for customer participation in the person's primary

3-1 business.

3-2 SECTION 6. Section 151.304(b), Finance Code, is amended to  
 3-3 read as follows:

3-4 (b) At the time an application for a money transmission  
 3-5 license is submitted, an applicant must file with the department:

3-6 (1) an application fee in the amount established by  
 3-7 commission rule;

3-8 (2) audited financial statements that are  
 3-9 satisfactory to the commissioner for purposes of determining  
 3-10 whether the applicant has the minimum net worth required under  
 3-11 Section 151.307 and is likely to maintain the required minimum net  
 3-12 worth if a license is issued; and

3-13 (3) security [~~in the amount of \$300,000,~~] that meets  
 3-14 the requirements of Section 151.308, and an undertaking or  
 3-15 agreement that the applicant will increase or supplement the  
 3-16 security to equal the aggregate security required by the  
 3-17 commissioner under that section before the issuance of the license  
 3-18 and the start of operations.

3-19 SECTION 7. Section 151.307, Finance Code, is amended by  
 3-20 amending Subsection (a) and adding Subsection (c) to read as  
 3-21 follows:

3-22 (a) An applicant for a money transmission license must  
 3-23 possess, and a money transmission license holder must maintain at  
 3-24 all times, a minimum net worth computed in accordance with  
 3-25 generally accepted accounting principles of:

3-26 (1) \$100,000, if business is proposed to be or is  
 3-27 conducted, directly or through an authorized delegate, at four or  
 3-28 fewer locations; or

3-29 (2) \$500,000, if business is proposed to be or is  
 3-30 conducted, directly or through an authorized delegate, at five or  
 3-31 more locations or over the Internet.

3-32 (c) At least 50 percent of the applicant's or license  
 3-33 holder's total net worth under this section must be tangible net  
 3-34 worth.

3-35 SECTION 8. Section 151.308, Finance Code, is amended by  
 3-36 amending Subsection (b) and adding Subsections (b-1) and (b-2) to  
 3-37 read as follows:

3-38 (b) The amount of the required security is the greater of  
 3-39 \$300,000 or an amount equal to one percent of the license holder's  
 3-40 total yearly dollar volume of money transmission business in this  
 3-41 state or the applicant's projected total volume of business in this  
 3-42 state for the first year of licensure, up to a maximum of \$2  
 3-43 million.

3-44 (b-1) The commissioner may increase the amount of security  
 3-45 required of an applicant who intends to provide, or a license holder  
 3-46 who is providing, third-party bill payments in conjunction with  
 3-47 loan acceleration services, up to a total amount of \$2 million, by  
 3-48 multiplying the amount of security required under this section by a  
 3-49 factor of up to two, if the commissioner determines, with respect to  
 3-50 the applicant or license holder, that a higher amount of the  
 3-51 required security is necessary to achieve the purposes of this  
 3-52 chapter based on the factors listed under Section 151.307(b).

3-53 (b-2) When the amount of the required security exceeds \$1  
 3-54 million, the applicant or license holder may, in the alternative,  
 3-55 provide security in the amount of \$1 million, plus a dollar for  
 3-56 dollar increase in the net worth of the applicant or license holder  
 3-57 over the amount required under Section 151.307, up to a total amount  
 3-58 of \$2 million.

3-59 SECTION 9. Section 151.702, Finance Code, is amended to  
 3-60 read as follows:

3-61 Sec. 151.702. CEASE AND DESIST ORDERS FOR UNLICENSED  
 3-62 PERSONS. (a) If the commissioner has reason to believe that an  
 3-63 unlicensed person has engaged or is likely to engage in an activity  
 3-64 for which a license is required under this chapter, the  
 3-65 commissioner may order the person to cease and desist from the  
 3-66 violation until the person is issued a license under this chapter.  
 3-67 The commissioner's order is subject to Section 151.709, unless the  
 3-68 order is issued as an emergency order. The commissioner may issue  
 3-69 an emergency cease and desist order in accordance with Section

4-1 151.710 if the commissioner finds that the person's violation or  
4-2 likely violation threatens immediate and irreparable harm to the  
4-3 public.

4-4 (b) A cease and desist order under this section may require  
4-5 the unlicensed person to take affirmative action to correct any  
4-6 condition resulting from or contributing to the activity or  
4-7 violation, including the payment of restitution to each resident of  
4-8 this state damaged by the violation.

4-9 SECTION 10. The heading to Section 151.705, Finance Code,  
4-10 is amended to read as follows:

4-11 Sec. 151.705. CEASE AND DESIST ORDERS FOR LICENSE HOLDERS  
4-12 OR AUTHORIZED DELEGATES.

4-13 SECTION 11. Section 151.707(d), Finance Code, is amended to  
4-14 read as follows:

4-15 (d) In determining the amount of the penalty, the  
4-16 commissioner shall consider factors that include the seriousness of  
4-17 the violation, the person's compliance history, and the person's  
4-18 good faith in attempting to comply with this chapter, provided that  
4-19 if the person is found to have demonstrated wilful disregard under  
4-20 Subsection (a)(4), the trier of fact may [~~shall~~] recommend that the  
4-21 commissioner impose the maximum administrative penalty permitted  
4-22 under Subsection (c).

4-23 SECTION 12. (a) Sections 151.304, 151.307, and 151.308,  
4-24 Finance Code, as amended by this Act, apply to a new application for  
4-25 a money transmission license only if the application was submitted  
4-26 on or after the effective date of this Act. An application for a  
4-27 license submitted before the effective date of this Act is governed  
4-28 by the law in effect on the date the application was submitted, and  
4-29 the former law is continued in effect for that purpose.

4-30 (b) A person holding a money transmission license on  
4-31 September 1, 2017, who is not in compliance with the net worth  
4-32 requirements of Section 151.307, Finance Code, as amended by this  
4-33 Act, shall comply with the net worth requirements of that section  
4-34 not later than September 1, 2022. On written application and for  
4-35 good cause shown, the banking commissioner of Texas may extend the  
4-36 period for compliance under this section for the money transmission  
4-37 license holder.

4-38 (c) Not later than July 1, 2018, a person holding a money  
4-39 transmission license on September 1, 2017, shall comply with the  
4-40 security requirements of Section 151.308, Finance Code, as amended  
4-41 by this Act.

4-42 (d) Sections 151.702 and 151.707, Finance Code, as amended  
4-43 by this Act, apply only to a violation that occurs on or after the  
4-44 effective date of this Act. A violation that occurs before that  
4-45 date is governed by the law in effect immediately before the  
4-46 effective date of this Act, and that law is continued in effect for  
4-47 that purpose.

4-48 SECTION 13. This Act takes effect September 1, 2017.

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