

By: Hall

S.B. No. 2097

A BILL TO BE ENTITLED

AN ACT

relating to the use of gold and silver coins and bullion.

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

SECTION 1. The purpose of this Act is to recognize this state's constitutional duty, power, and right under Section 10, Article I, United States Constitution, and the Tenth Amendment of the United States Constitution to make gold and silver legal tender in the payment of debt and to secure the right of citizens of this state under the Ninth and Tenth Amendments of the United States Constitution to tender gold and silver in the payment of debt.

SECTION 2. The legislature finds and declares that this Act is necessary and proper to:

(1) bring into full compliance with the United States Constitution the policies, practices, and procedures of this state with respect to the use of gold and silver as legal tender in the payment of debt;

(2) preserve, protect, and promote the sovereignty and independence of this state with respect to the performance of essential governmental functions that require the state to tender payment of debt;

(3) preserve, protect, and promote the economic security, safety, health, and welfare of the people of this state;

(4) protect this state and its citizens in the acquisition and possession of gold and silver and their use as legal

1 tender in the payment of debt; and

2 (5) secure the existence, solvency, liquidity, and
3 flexibility of the pension fund of the Teacher Retirement System of
4 Texas and the permanent university fund.

5 SECTION 3. Subtitle C, Title 10, Government Code, is
6 amended by adding Chapter 2117 to read as follows:

7 CHAPTER 2117. USE OF GOLD AND SILVER COINS AND BULLION

8 Sec. 2117.001. DEFINITIONS. For purposes of this chapter:

9 (1) "Base-metallic coin" means a coin composed of base
10 metals that has been minted and assigned a face value in dollars
11 pursuant to a law enacted by the United States Congress.

12 (2) "Gold bullion" means gold bullion from any source
13 that a reliable agency has assayed and certified as containing gold
14 of a specific weight and fineness.

15 (3) "Gold clause" means a provision included in or
16 relating to a contract, obligation, or other debt instrument that
17 vests in an obligee the right to require the obligor to pay,
18 deliver, or tender a number of gold coins, an amount of gold
19 bullion, or both.

20 (4) "Gold coin of the United States" means a gold coin
21 that has been minted and assigned a face value in dollars pursuant
22 to a law enacted by the United States Congress.

23 (5) "Gold coins" include gold coins of the United
24 States and gold coins of other countries.

25 (6) "Gold coins of other countries" include:

26 (A) the Austrian 100 Corona and 20 Corona gold
27 coins and the Austrian 4 and 1 Ducat gold coins;

- 1 (B) the British Sovereign gold coin;
2 (C) the Canadian 1 ounce, 0.5 ounce, 0.25 ounce,
3 and 0.1 ounce Maple Leaf gold coins;
4 (D) the French 20 Franc gold coin;
5 (E) the Swiss 20 Franc gold coin;
6 (F) the Mexican 50, 20, 10, 5, 2.5, and 2 Peso
7 gold coins; and
8 (G) the South African 2 ounce, 1 ounce, 0.5
9 ounce, 0.25 ounce, and 0.1 ounce Krugerrand gold coins.

10 (7) "Paper currency" means paper currency that has
11 been emitted and assigned a face value in dollars pursuant to a law
12 enacted by the United States Congress.

13 (8) "Silver bullion" means silver bullion from any
14 source that a reliable agency has assayed and certified as
15 containing silver of a specific weight and fineness.

16 (9) "Silver clause" means a provision included in or
17 relating to a contract, obligation, or other debt instrument that
18 vests in an obligee the right to require the obligor to pay,
19 deliver, or tender a number of silver coins, an amount of silver
20 bullion, or both.

21 (10) "Silver coin of the United States" means a silver
22 coin that has been minted and assigned a face value in dollars
23 pursuant to a law enacted by the United States Congress.

24 (11) "Silver coins" include silver coins of the United
25 States and silver coins of other countries.

26 (12) "Silver coins of other countries" include the
27 Canadian 1 ounce Maple Leaf silver coin.

1 Sec. 2117.002. APPLICABILITY. This chapter does not apply
2 to gold or silver coins, base-metallic coins, paper currency, or a
3 contract, obligation, or other debt instrument that provides for
4 the payment or delivery of gold or silver coins, base-metallic
5 coins, or paper currency if the economic value of the coins or
6 currency in the market for collecting coins and currency is at least
7 20 percent more than the value of the coins or currency prescribed
8 by Section 2117.003.

9 Sec. 2117.003. DOLLAR VALUES. For purposes of this
10 chapter:

11 (1) The value in dollars of a gold or silver coin of
12 the United States is the face value of the coin.

13 (2) The value in dollars of a silver coin for which the
14 United States Congress has not fixed a value by statute is
15 calculated by dividing the weight of silver in troy grains that the
16 coin contains by 371.25.

17 (3) The value in dollars of a gold coin for which the
18 United States Congress has not fixed a value by statute is
19 calculated by dividing the weight of gold in troy grains that the
20 coin contains by 371.25 and multiplying the result by the rate of
21 exchange between silver and gold in the free market.

22 (4) The value in dollars of an amount of silver bullion
23 is calculated by dividing the weight of the amount of bullion in
24 troy grains by 371.25 and multiplying the result by the ratio at
25 which silver bullion exchanges against silver coin in the free
26 market.

27 (5) The value in dollars of an amount of gold bullion

1 is calculated by dividing the weight of the amount of bullion in
2 troy grains by 371.25, multiplying the result by the rate of
3 exchange between silver and gold in the free market, and then
4 multiplying that result by the ratio at which gold bullion
5 exchanges against gold coin in the free market.

6 (6) The value in dollars of a base-metallic coin is the
7 face value of the coin.

8 (7) The value in dollars of paper currency is the face
9 value of the currency.

10 Sec. 2117.004. DETERMINATION OF CERTAIN EXCHANGE RATIOS BY
11 COMPTROLLER. (a) At a number of intervals during the business day
12 that the comptroller finds to be technically feasible, the
13 comptroller shall determine and make available to the public on the
14 comptroller's Internet website the ratios in the free market at
15 which silver exchanges against gold, silver bullion exchanges
16 against silver coin, and gold bullion exchanges against gold coin.

17 (b) The comptroller shall archive for at least 10 years the
18 determinations made under Subsection (a) and make them available to
19 the public free of charge.

20 (c) In a judicial or administrative proceeding in this
21 state, a determination made under Subsection (a) is presumed to be
22 correct but may be rebutted by clear and convincing evidence.

23 Sec. 2117.005. REPORTS OF CERTAIN INFORMATION TO
24 COMPTROLLER. (a) Not later than November 20 of each year, a state
25 agency that is required to submit an annual financial report under
26 Section 2101.011 shall report to the comptroller the values of the
27 assets, liabilities, and fund balances listed in the financial

1 report expressed in:

2 (1) dollars of paper currency;

3 (2) dollars of base-metallic coins;

4 (3) dollars of silver that is 371.25 troy grains in
5 weight;

6 (4) troy grains of silver bullion; and

7 (5) troy grains of gold bullion.

8 (b) The comptroller shall archive for at least five years
9 the information reported under Subsection (a) and make it available
10 to the public free of charge.

11 (c) For purposes of this section, "state agency" has the
12 meaning assigned by Section [2101.001](#).

13 Sec. 2117.006. LEGAL TENDER. For purposes of state law, the
14 following are legal tender and may not be treated as property other
15 than money:

16 (1) gold and silver coins;

17 (2) gold and silver bullion;

18 (3) base-metallic coins; and

19 (4) paper currency.

20 Sec. 2117.007. ENFORCEMENT OF GOLD AND SILVER CLAUSES. An
21 officer or employee of this state who is required or authorized to
22 execute, enforce, enter a judgment, decree, or ruling with regard
23 to, or otherwise put into effect a gold or silver clause in a
24 contract, obligation, or other debt instrument:

25 (1) shall, as applicable:

26 (A) deliver or cause to be delivered to the
27 obligee the type and amount of gold or silver specified in the gold

1 or silver clause;

2 (B) order specific performance of the gold or
3 silver clause by the obligor's payment to the obligee of the type
4 and amount of gold or silver specified in the gold or silver clause;
5 or

6 (C) enter any other judgment, decree, or ruling
7 that is necessary and proper to compel the obligor to deliver to the
8 obligee the type and amount of gold or silver specified in the gold
9 or silver clause; and

10 (2) may not allow a gold or silver clause to be
11 satisfied by the payment, delivery, or tender of anything other
12 than the type and amount of gold or silver specified in the gold or
13 silver clause.

14 Sec. 2117.008. PAYMENTS OF CERTAIN TAXES AND FEES IN GOLD
15 AND SILVER. If the amount of a tax, charge, assessment, or fee on a
16 transaction or activity is required by state law to be calculated
17 based on the medium of payment used or involved in the transaction
18 or activity and the medium of payment is gold or silver coins or
19 gold or silver bullion:

20 (1) the amount of the tax, charge, assessment, or fee
21 must be calculated using the values of gold and silver coins and
22 gold and silver bullion prescribed by Section 2117.003; and

23 (2) the tax, charge, assessment, or fee must be paid in
24 the same medium of payment used or involved in the transaction or
25 activity.

26 Sec. 2117.009. REQUIRED PAYMENTS IN GOLD AND SILVER. A
27 state officer or employee may not require a person to tender or

1 accept payment of a debt in gold or silver coins or gold or silver
2 bullion unless the person has been adjudicated by a court of
3 competent jurisdiction of this state to be required to tender or
4 accept gold or silver coins or gold or silver bullion and the person
5 is:

6 (1) a party to a contract or other obligation that
7 contains a gold or silver clause that applies to the person; or

8 (2) required by state law to pay a tax, charge,
9 assessment, fee, fine, or penalty in gold or silver coins or gold or
10 silver bullion.

11 Sec. 2117.010. LIMITATION ON TAXES AND FEES TO CERTAIN
12 EXCHANGES. A state officer or employee may not assess, demand,
13 levy, collect, or enter a judgment or other order that authorizes
14 the collection of a tax, charge, assessment, fee, or penalty on a
15 transaction or activity if the transaction or activity involves no
16 more than an exchange of:

17 (1) paper currency for gold or silver coins;

18 (2) paper currency for gold or silver bullion;

19 (3) base-metallic coins for gold or silver coins;

20 (4) base-metallic coins for gold or silver bullion;

21 (5) gold or silver coins for gold or silver coins;

22 (6) gold or silver coins for gold or silver bullion; or

23 (7) gold bullion for silver bullion.

24 Sec. 2117.011. PROHIBITION ON SEIZURE OF GOLD AND SILVER. A
25 person may not, with or without the payment of just compensation,
26 seize, take possession of, assert dominion or control over, or
27 demand the surrender or other transfer of gold or silver coins or

1 gold or silver bullion owned by or in the possession of this state,
2 a citizen of this state, a resident of this state, or a person
3 located in this state unless a court of competent jurisdiction,
4 after notice and hearing, enters a final judgment, ruling, decree,
5 or other order requiring the delivery of gold or silver coins or
6 gold or silver bullion in satisfaction of:

7 (1) a contract or other obligation that contains a
8 gold or silver clause that provides for payment in gold or silver
9 coins or gold or silver bullion;

10 (2) the payment of damages assessed in gold or silver
11 coins or gold or silver bullion as part of a judicial proceeding; or

12 (3) the payment of a tax, charge, assessment, fee,
13 fine, or penalty determined to be lawfully payable only by gold or
14 silver coins or gold or silver bullion.

15 Sec. 2117.012. CIVIL ACTION. A person who is injured or
16 aggrieved by an intentional or negligent failure to enforce this
17 chapter by a state officer or employee may bring a civil action
18 against the state officer or employee in a district court. In an
19 action under this section, the court may:

20 (1) grant an injunction;

21 (2) issue a writ of mandamus or prohibition;

22 (3) award compensatory or punitive damages; or

23 (4) award other appropriate relief.

24 SECTION 4. This Act takes effect September 1, 2017.