

SENATE BILL REPORT

ESSB 6414

As Passed Senate, February 15, 2002

Title: An act relating to licensing and regulating money transmitters and currency exchangers.

Brief Description: Creating the uniform money services act.

Sponsors: Senate Committee on Labor, Commerce & Financial Institutions (originally sponsored by Senators Prentice, Winsley, Deccio, Keiser and Kline; by request of Attorney General and Governor Locke).

Brief History:

Committee Activity: Labor, Commerce & Financial Institutions: 1/28/02, 1/29/02 [DPS-WM, DNP].

Ways & Means: 2/4/02, 2/5/02 [DPS (LCF)].

Passed Senate: 2/15/02, 41-5.

SENATE COMMITTEE ON LABOR, COMMERCE & FINANCIAL INSTITUTIONS

Majority Report: That Substitute Senate Bill No. 6414 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Prentice, Chair; Keiser, Vice Chair; Benton, Franklin, Rasmussen, Regala and Winsley.

Minority Report: Do not pass.

Signed by Senators Gardner and Hochstatter.

Staff: Joanne Conrad (786-7472)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 6414 as recommended by Committee on Labor, Commerce & Financial Institutions be substituted therefor, and the substitute bill do pass.

Signed by Senators Brown, Chair; Regala, Vice Chair; Fraser, Kline, Kohl-Welles, Poulsen, Rasmussen, B. Sheldon, Snyder, Spanel and Thibaudeau.

Staff: Erin Hannan (786-7708)

Background: Scrutiny over money transmission and currency exchange services has increased since the September 2001 terrorist attacks. In addition, some users of money transmission or currency exchange services have experienced difficulties, resulting in harm to the consumers of these services. Although the abuses have not appeared to be massive or widespread, policymakers became concerned with the apparent lack of consumer protection, especially in the case of vulnerable populations.

Money transmission and currency exchange businesses are not currently licensed or regulated at the state level in Washington. The Department of Financial Institutions (DFI) is the agency responsible for protecting consumers of financial services, and maintaining a high level of reliability for the state's financial system.

Summary of Bill: The Uniform Money Services Act is created to establish a regulatory system for money transmission and currency exchange businesses, to ensure that they are not used for terrorist or criminal purposes, and to protect the public interest by maintaining the financial system in the state of Washington.

Two parallel systems of licensure and regulation are established, one for money transmitters and one for currency exchangers. Both of these "money services" apply for licensure by DFI, are subject to extensive investigation as part of the licensing process, and must maintain certain surety or other security to protect the state and consumers from loss. DFI has the flexibility to waive bonding requirements and allow for variances in net worth requirements in the case of small businesses with low risk.

Money transmitters must maintain net worth standards, and both types of money services must make business and accounting records, and information about material changes and legal actions available to DFI. Annual reporting and license assessment is required. Fees are required.

Issuance of a license is conditioned upon many criteria, including financial soundness, responsibility and the competence and character of the executive officers, responsible individuals, board directors and persons within the control of the applicant for licensure. None of these individuals can be listed on the U.S. Department of Treasury/Department of State list of terrorists and terrorist organizations. Relationships between licensees and their authorized delegates are spelled out. Money transmitters can only invest in certain categories and percentage limits of permissible investments.

Due process appeal for license denial is provided. Administrative proceedings for licensees are in accordance with the Administrative Procedure Act.

DFI has statutory authority to conduct extensive examinations and investigations of licensees and of others engaged in the business of providing money services. Licensees must provide DFI with money laundering reports required under federal and state law. DFI's remedies, in the case of legally noncompliant licensees, include the ability to suspend or revoke the license, as well as impose civil penalties, compel restitution, or require other affirmative actions to comply with the law.

DFI conducts outreach with small business and immigrant communities to provide understanding of the law and technical assistance during the licensing process.

Unlicensed persons engaging in money services businesses may be investigated, and may be subject to civil penalties or an order prohibiting them from doing business. Licensees who violate the law may also be subject to cease and desist orders, as well as civil and criminal penalties.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on October 1, 2002.

Testimony For (Labor, Commerce & Financial Institutions): This bill is designed to fill gaps in current law, to prevent and mitigate terrorist acts and crime, and to maintain high standards of financial responsibility by organizations doing business in Washington State. It is part of Governor Locke's anti-terrorist package. Money services are currently unregulated at the state level, and more than 30 states are now enacting similar measures. Federal law only requires filing of minimal information from money services companies, and does not provide for thorough oversight and assurance of legal activity, to protect the public and consumers of money services.

Testimony Against (Labor, Commerce & Financial Institutions): None.

Testified (Labor, Commerce & Financial Institutions): Fred Hellberg, Governor's Office; Mark Thomson, Acting Director, DFI; Elaine Rose, Attorney General's Office; Ezra Levine, Non-Bank Funds Transmitters Group; Anita Ramasastry, Professor, UW Law School; Mark Greenberg.

Testimony For (Ways & Means): SSB 6414 ensures that statutes mitigate and prevent terrorist attacks and provide consumer protection from money services fraud. Other states already regulate money services businesses and this bill adds the necessary regulatory incentives to protect consumers. The bill provides a comprehensive system of licensure for money transmitters and is based on national law.

Testimony Against (Ways & Means): None.

Testified (Ways & Means): Fred Hellberg, OFM (pro); Mark Thomson, DFI (pro).