

SENATE BILL REPORT

SB 5465

As Reported By Senate Committee On:
Financial Services, Insurance & Housing, February 13, 2003

Title: An act relating to licensing and regulating money transmission and currency exchange.

Brief Description: Licensing and regulating money transmission and currency exchange.

Sponsors: Senators Benton, Prentice, Winsley, Jacobsen, Eide, Kohl-Welles, Hale, Fairley, Kline, Poulsen, Finkbeiner, Keiser, Kastama, Shin, Schmidt, Thibaudeau, Parlette, Haugen, Horn, Reardon, McAuliffe, Esser, Mulliken, Honeyford, Sheahan, Zarelli and T. Sheldon; by request of Department of Financial Institutions.

Brief History:

Committee Activity: Financial Services, Insurance & Housing: 2/13/03 [DPS].

SENATE COMMITTEE ON FINANCIAL SERVICES, INSURANCE & HOUSING

Majority Report: That Substitute Senate Bill No. 5465 be substituted therefor, and the substitute bill do pass.

Signed by Senators Benton, Chair; Winsley, Vice Chair; Keiser, Prentice, Reardon, Roach and Zarelli.

Staff: Joanne Conrad (786-7472)

Background: 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.

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 are concerned with the apparent lack of consumer protection, especially in the case of vulnerable populations.

In the 2002 legislative session, bills were introduced to regulate money transmitters in Washington state. When the bills failed to pass, DFI performed extensive outreach to various interested groups, including many different immigrant groups, to study their concerns about money transmission. SB 5365 incorporates several changes to accommodate those concerns.

Summary of Substitute 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 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 impose a range of 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.

Prohibited practices include "bait and switch" advertising and deceptive or misleading statements about material terms.

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

As with numerous other categories of state licensees, money transmitters are subject to license suspension if they are not in compliance with child support orders.

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.

Substitute Bill Compared to Original Bill: The original bill was not considered.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect October 1, 2003.

Testimony For: Lots of dialog and outreach to immigrant communities occurred in preparation for this bill. The bill is needed to protect the safety and soundness of the money services business and protect consumers who rely upon money transmitters.

Testimony Against: None.

Testified: Mark Thomson, DFI; Mark Greenberg and Ezra Levine, Nonbank Funds Transmitters Grp; Antonio Ginatas, Commission on Hispanic Affairs.