HOUSE BILL REPORT
ESSB 6414

As Reported by House Committee On:
Select Committee on Community Security

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:
Select Committee on Community Security: 2/27/02, 2/28/02 [DPA].

Brief Summary of Engrossed Substitute Bill
(As Amended by House Committee)

- Creates a joint task force on licensing and regulating money transmitters.
- Requires the Department of Financial Institutions to provide technical or other assistance to small businesses or local, immigrant, or ethnic communities to comply with federal money transmitter and currency exchange registration requirements.

HOUSE COMMITTEE ON SELECT COMMITTEE ON COMMUNITY SECURITY

Majority Report: Do pass as amended. Signed by 15 members: Representatives Hurst, Chair; Simpson, Vice Chair; Lisk, Ranking Minority Member; Ballasiotes, Barlean, Benson, Buck, Campbell, Haigh, Jackley, Kessler, Morris, O'Brien, Schmidt and Schual-Berke.

Staff: Thamas Osborn (786-7129).

Background:

"Money transmission" generally involves a relatively informal transaction in which the customer arranges to send money to another person through the services of an intermediary business - i.e., a money transmitter - in return for the payment of a fee. The transmission of the money can occur in any one of a number of ways, including by telephone, wire, facsimile, or computer. In international transactions involving the exchange of one currency for another, it is common for the money transmitter to provide currency exchange services as well.

Historically, the money transmission business in the United States has been dominated by two large corporations, Western Union and MoneyGram. As of 1996, these two companies accounted for 97 percent of the face value of funds transmitted nationwide. However, they accounted for only 81 percent of the total number of money transmission outlets (approximately 35,000), which means that the remaining 19 percent of the outlet locations (approximately 8,000) were in the hands of smaller, independent operators. These operations consist of small outlets managed either as private businesses operating their own small networks, or as one-person agencies that receive a customer's money on behalf of another money transmitter.

Money transmission services are commonly used by members of various ethnic groups in order to conduct international money transfers. According to a 1997 study, the growth of the industry has been driven by recent immigrants transmitting funds back to their countries of origin, usually to family members. Accordingly, the marketing of the service is often directed at ethnic communities, most notably Spanish-speaking populations. Such services are also used by those who - for cultural or other reasons - either do not maintain an account with a commercial bank or who simply feel more comfortable doing business with a small, neighborhood business that caters to a certain ethnic community.

At present, money transmission and currency exchange businesses are not subject to systematic regulation either by the state or the federal government. Though these businesses are subject to state and federal regulations pertaining to money laundering, currency transaction reporting, and consumer protection, there is currently no licensing requirement and no explicit regulation of their business practices. The absence of such regulatory oversight has become the subject of public scrutiny following the recent publication of evidence linking certain money transmission businesses with the financing of terrorist acts in this country.

In this state, businesses that provide financial services are generally subject to regulation by the Department of Financial Institutions (department). The department is the agency responsible for the regulation of banks, savings and loans, credit unions, securities brokers, mortgage brokers, and other financial entities.

Summary of Amended Bill:

The Joint Task Force on Licensing and Regulating Money Transmitters (Joint Task

Force) is created. The Joint Task Force includes 10 legislative members. The membership includes three majority caucus and two minority caucus members from each house and at least one member each from the House Financial Institutions and Insurance Committee and the Senate Labor, Commerce and Financial Institutions Committee. The Joint Task Force may consult with or form an advisory committee of public and private sector interests. Provisions are included for staff support, expenses, and meetings.

The Joint Task Force must identify:

- Direct or affiliate barriers to licensing for small community-based businesses or for local, immigrant, or ethnic communities not typically using traditional financial institutions;

- Effects of money transmission and currency exchange licensing regulations in other states on small community-based businesses or for local, immigrant, or ethnic communities not typically using traditional financial institutions; and

- The methods by which other states have addressed technical assistance and access issues.

The Joint Task Force must make recommendations regarding: (1) a state licensing system in compliance with federal law and responsive to the state's statutory framework for other money service industries; and (2) implementation of a regulatory scheme to minimize: (a) adverse impact on small community-based businesses or for local, immigrant, or ethnic communities not typically using traditional financial institutions; and (b) disruption to legitimate purposes for current money transmission and currency exchange services in these communities.

The Joint Task Force is required to report its findings and recommendations to the Legislature by December 1, 2002.

The Department of Financial Institutions (department) must maintain a liaison member to the Joint Task Force, who will serve as a nonvoting member, and provide staff support for technical assistance to the Joint Task Force. The department also must provide appropriate technical or other assistance to small businesses or local, immigrant, or ethnic communities to comply with federal money transmitter and currency exchange registration requirements.

These provisions expire on July 1, 2003.

Amended Bill Compared to Engrossed Substitute Bill:

The amended bill replaces all of the provisions of the engrossed substitute bill, which created a statutory scheme for the licensing and regulation of persons involved in the business of money transmission or currency exchange, and provided consumer protection provisions and criminal penalties.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

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

Testimony For: A regulatory framework is needed for money transmitters in order to protect consumers and to protect the general public from illegal activities. There are increasing problems in this state with consumers being defrauded by unregulated money transmitters. One business recently went bankrupt and caused many customers to lose money. Also, federal law enforcement agencies have conducted many raids on businesses suspected of engaging in illegal activity. Imposing regulations on the industry will decrease illegal activity and ensure the solvency of the businesses. Many other states have similar regulatory programs in place. There is a possibility that the bill will adversely impact some small businesses, but the Senate bill is much more sensitive to the issue than was the original House bill. The Senate bill allows for waiver of the surety bond requirement and requires the department to conduct outreach to small businesses and to immigrant communities. Subsequent amendments will create an advisory group to assist immigrant communities. The language of the bill is derived from the Uniform Money Services Act, the Consumer Loan Act, and the Mortgage Brokers Practices Act. This legislation is both practical and mainstream, and relates to safety and soundness.

Testimony Against: None.

Testified: Mark Thomson, Department of Financial Institutions; Elaine Rose, Office of the State Attorney General; Fred Helberg, Office of the Governor; Mark Greenberg, Non-bank Funds Transfer Group; and Anita Ramasastry, University of Washington School of Law.