

SENATE BILL REPORT

SHB 2661

As Reported By Senate Committee On:
Labor, Commerce & Financial Institutions, February 28, 2002

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

Brief Description: Licensing and regulating money transmitters and currency exchangers.

Sponsors: House Committee on Select Committee on Community Security (originally sponsored by Representative Hurst; by request of Governor Locke and Attorney General).

Brief History:

Committee Activity: Labor, Commerce & Financial Institutions: 2/26/02, 2/28/02
[DPA-WM, DNPA].

SENATE COMMITTEE ON LABOR, COMMERCE & FINANCIAL INSTITUTIONS

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.
Signed by Senators Prentice, Chair; Keiser, Vice Chair; Benton, Fairley, Franklin, Rasmussen, Regala and Winsley.

Minority Report: Do not pass as amended.
Signed by Senators Deccio, Gardner and Hochstatter.

Staff: Joanne Conrad (786-7472)

Background: Money transmitters and currency exchangers are not currently licensed and regulated on the federal level. Many states are moving towards enacting uniform state laws to protect the public interest by licensing and regulating these types of businesses. Concerns center around the use of money transmission to promote criminal enterprises, and the harm to consumers when dealing with dishonest money transmitters or currency exchangers.

Washington State is one of a minority of jurisdictions that does not currently have a regulatory scheme for money transmitters and currency exchangers.

Summary of Amended 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 illegal 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 organizations with whom transactions are prohibited. 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, including the establishment of a "money services business commission," to consult and advise DFI on the administration of the program.

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.

Amended Bill Compared to Substitute Bill: The amendment replaces a joint task force to study the possible regulation of money transmission with an extensive regulatory scheme.

Appropriation: None.

Fiscal Note: Requested on February 25, 2002.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The Governor, the Attorney General, and the Department of Financial Institutions are aware of sensitive enforcement issues in small and ethnic communities, and are continuing with outreach efforts. The Senate bill, ESSB 6414, with changes, is needed now. A study is unnecessary. Recent situations have resulted in harm to consumers. The state needs to be a responsible partner with the federal government in efforts to regulate these types of businesses and protect the public.

Testimony Against: None.

Testified: Fred Hellberg, Governor's Office; Elaine Rose, Attorney General's Office; Mark Thomson, Acting Director, Department of Financial Institutions.