
Business & Financial Services Committee

HB 1327

Brief Description: Addressing licensing and enforcement provisions applicable to money transmitters.

Sponsors: Representatives Kirby, Ryu and Santos; by request of Department of Financial Institutions.

Brief Summary of Bill

- Requires fingerprinting for a state and national criminal background check of officers, directors, and owners of money services license applicants.
- Makes a violation of the Uniform Money Services Act (Act) a violation of the Consumer Protection Act .
- Modifies several definitions in the Act.

Hearing Date: 1/29/13

Staff: Jon Hedegard (786-7127).

Background:

The Department of Financial Institutions (DFI) regulates the money transmission and currency exchange businesses (collectively referred to as money services) under the Uniform Money Services Act (Act). The act states that it is "the intent of the legislature to establish a state system of licensure and regulation to ensure the safe and sound operation of money transmission and currency exchange businesses, to ensure that these businesses are not used for criminal purposes, to promote confidence in the state's financial system, and to protect the public interest."

Money transmission is the receipt of money for the purpose of transmitting or delivering the money to another location, whether inside or outside the United States. The transmission/delivery of the money can take place by any means, including wire, facsimile, or electronic transfer.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Currency exchange is the exchange of the money of one government for the money of another government, or holding oneself out as being able to complete such an exchange. Various types of businesses are exempted from the definition.

Generally.

Money transmitters and currency exchangers must meet licensing requirements that are largely identical. However, money transmitters are subject to bonding and net worth requirements not applicable to currency exchangers. Also, currency exchangers do not need a license if total business revenues obtained from currency exchange do not exceed 5 percent.

Money Transmitter License Application.

An application for a money transmitter license must contain specified information, including:

- a 10-year employment history of the designated responsible individual;
- fingerprints of the responsible individual, upon request by the Director of the DFI (Director);
- a list of any criminal convictions sustained by the responsible individual during the preceding 10 years;
- documentation that the proposed responsible individual either is a citizen of the United States or has the necessary legal work status as an immigrant;
- a list of the authorized delegates;
- a description of the source of the money or credit to be used in conducting the business;
- a description of any licensing problems in other states involving the responsible individual;
- information regarding any bankruptcy or receivership affecting the responsible individual;
- if the applicant is a business entity, specific additional information about the entity; and
- any other information required by the DFI by rule.

Prior to issuing a license, the Director must conduct an investigation of the responsible person for the applicant and find that it is in the best interest of the public to allow the applicant to engage in the money services business. The investigation must include:

- an examination of the applicant's background, financial profile, experience, competence, character, and general fitness; and
- a determination that neither the applicant nor its proposed employees are listed by the federal government as persons who pose a potential threat of committing terrorist acts or financing terrorist acts.

Exemptions.

Certain entities are specifically exempted from the Act:

- governmental entities and agents, and those contracted to provide money services on behalf of governmental entities;
- the United States Postal Service;
- financial institutions and corporations organized under specified federal acts;
- federally regulated boards of trade;
- federally registered futures commission merchants;
- operators of payment systems that provide services to other exempted entities, with respect to wire transfers, credit cards, debit cards, etc.;
- registered securities broker-dealers;

- state licensed insurance companies, title insurance companies, or escrow agents; and
- certain persons involved in connection with the issuance, sale, use, redemption, or exchange of stored value or payment instruments.

The Director may waive the licensing provisions of the Act when the Director determines it necessary to facilitate commerce and protect consumers.

Prohibited Practices.

It is a violation of the Act for a money services provider or an employee to engage in specified prohibited practices, including:

- engaging in trade practices that are unfair or deceptive, including bait and switch advertising or sales practices;
- committing fraud or misrepresentation;
- creating false or deceptive documents or records; and
- failing to file reports or records required by law.

Money Laundering and Governmental Reporting Requirements.

A money services licensee must comply with:

- money laundering laws;
- record keeping laws; and
- suspicious transaction reporting requirements.

Financial Requirements.

Money transmitters are required to maintain a:

- surety bond, or other acceptable security
- a portfolio of permissible investments.
- a tangible net worth, set in rule, of at least \$10,000 but not exceeding \$3 million.

Authority of the Director.

The Director may examine and investigate money service provider licensees. The Director may take a wide range of regulatory actions for violations of the Act or rules to implement the Act. The Director may adopt rules to implement the Act. There are criminal penalties for certain violations of the Act.

Background Checks for Financial Professionals.

A variety of financial professionals are required by state or federal law to undergo a background check, including fingerprinting. This group includes people who work at banks, credit unions, consumer loan companies, escrow agents, mortgage brokers, and insurance producers.

Consumer Protection Act.

The Consumer Protection Act (CPA) prohibits unfair methods of competition and unfair or deceptive acts or practices in the conduct of trade or commerce directly or indirectly affecting the people of Washington. The CPA allows a person injured by a violation of the Act to bring a private cause of action for damages. In addition, the CPA allows the Attorney General (AG) to bring a CPA action in the name of the state or on behalf of persons residing in the state.

Summary of Bill:

Several definitions are modified and language throughout the Act is conformed to those changed definitions.

At the time of application for an initial license and upon license renewal, an applicant must provide identifying information, including fingerprints, to the DFI regarding each applicant's:

- officers;
- directors; and
- owners.

The officers, directors, and owners are subject to a state and national criminal background check. The DFI can only disseminate this background information to criminal justice agencies.

A violation of the Act is a violation of the CPA.

A licensee must provide contact information for all persons that are authorize to provide money services on behalf of the licensee

The Director is expressly given the authority and administrative discretion to administer and interpret the Act to fulfill the stated intent of the Legislature.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.