

HOUSE BILL REPORT

SHB 1045

As Passed House:
February 9, 2017

Title: An act relating to licensing and enforcement provisions applicable to money transmitters and currency exchanges under the uniform money services act.

Brief Description: Addressing licensing and enforcement provisions applicable to money transmitters and currency exchanges under the uniform money services act.

Sponsors: House Committee on Business & Financial Services (originally sponsored by Representatives Kirby and Vick; by request of Department of Financial Institutions).

Brief History:

Committee Activity:

Business & Financial Services: 1/10/17, 1/11/17 [DPS].

Floor Activity:

Passed House: 2/9/17, 91-7.

Brief Summary of Substitute Bill

- Requires certain disclosure for virtual currency money transmitters.
- Requires a surety bond for online currency exchangers.
- Modifies the surety bond requirements for money transmitters and adds exempted entities.

HOUSE COMMITTEE ON BUSINESS & FINANCIAL SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Kirby, Chair; Reeves, Vice Chair; Vick, Ranking Minority Member; J. Walsh, Assistant Ranking Minority Member; Barkis, Bergquist, Blake, Jenkin, McCabe, Santos and Stanford.

Staff: Robbi Kesler (786-7153).

Background:

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.

The Department of Financial Institutions (DFI) regulates money transmission and currency exchange businesses (collectively referred to as money services) under the Uniform Money Services Act (Act). The DFI may examine and investigate money service provider licensees and may take action for the violations of the Act. The DFI may also adopt rules to implement the Act.

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. Money can be transmitted or delivered by any means, including wire, facsimile, or electronic transfer. Money transmitters are required to obtain a surety bond, or other security acceptable to the DFI, based on the prior year's money transmission dollar volume. Generally, the bond must be at least \$10,000 and not exceed \$550,000. The DFI may increase the bond amount required if the money transmitter's financial condition is in danger. The surety bond must cover claims for at least five years after the date of a money transmitter's violation, or at least five years after the money transmitter stops services in this state.

Currency exchange is the exchange of money of one government for the money of another government, or holding oneself out as being able to complete such an exchange. Currently a surety bond is not required for currency exchangers.

Virtual Currency.

The DFI currently regulates virtual currency value exchange businesses as money transmitters under this Act. Virtual currency is a digital representation of value, stored and exchanged electronically.

Exemptions.

These 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 DFI may waive the licensing requirements of the Act when necessary to facilitate commerce and protect consumers.

Summary of Substitute Bill:

Virtual Currency.

Virtual currency is defined as a digital representation of value that does not have legal tender status as recognized by the United States government.

Virtual currency money transmitter licensees are required to disclose, in a clear and conspicuous manner:

- a schedule of fees and charges, including the timing and explanation of how fees are calculated;
- whether the product or service provided is insured or guaranteed;
- a notice that the transfer is irrevocable, and note any exceptions;
- notice of licensee's liability for unauthorized, mistaken, or accidental transfers; and
- any additional disclosure the DFI may adopt by rule.

Virtual currency money transmitters must hold like-kind virtual currency funds in an amount obligated to consumers.

Virtual currency money transmitters that store virtual currency for others must complete a third-party security audit of all electronic information and data systems and submit all findings to the DFI.

Online Currency Exchangers.

A surety bond is required for online currency exchangers. Generally, the surety bond amount will be at least \$10,000 and not exceed \$50,000 based on the nature and volume of licensee's activities. At the discretion of the DFI, the bond may be increased up to \$1,000,000. The surety bond must cover claims for at least one year after the date of an online currency exchanger licensee's violation or one year after the licensee stops services in this state. The DFI may issue a cease and desist order for licensees that do not maintain a surety bond.

Other Modifications.

The bond requirement for money transmitters is modified to allow the DFI to increase the amount of the bond up to \$1,000,000 based on the nature and volume of the licensee's business and the financial health of the company. Security in lieu of bond is no longer available.

Payment processors, payroll companies, bookkeepers, and accounting firms are excluded from the Act if money transmission or currency exchange is an ancillary service.

The DFI may examine and investigate persons engaging in money transmission or currency exchange without a license.

The DFI is not prohibited from publically disclosing a list of licensees' authorized delegates.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This bill is carefully crafted to update and provide oversight to the virtual currency money transmitters and online currency exchanger businesses. The DFI has worked with stakeholders for months on the issues addressed in this bill. The disclosure and third-party audit requirements for virtual currency money transmitters adds protection for consumers. The definition of virtual currency is appropriate and it's important to include the carve-out for software and other protocols related to digital currency that do not include value exchange. Allowing like-kind holdings for virtual currency businesses is appropriate and will be well received in the industry. A surety bond requirement for online currency exchangers protects consumers because this type of exchange is not instantaneous. The added licensing exclusions are for industries with few complaints and low risk to consumers. Additional provisions could be added in the future including flexibility in how virtual currency disclosures can be delivered to consumers, allowing a third-party audit deferral for startup digital currency customers, and making it clearer that prepaid access does not include virtual currency.

(Opposed) None.

Persons Testifying: Representative Kirby, prime sponsor; Charlie Clark, Department of Financial Institutions; and Joseph Cutler, Perkins Coie LLP.

Persons Signed In To Testify But Not Testifying: None.