

# HOUSE BILL REPORT

## SSB 5031

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### As Reported by House Committee On: Business & Financial Services

**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:** Senate Committee on Financial Institutions & Insurance (originally sponsored by Senators Angel and Mullet; by request of Department of Financial Institutions).

#### **Brief History:**

##### **Committee Activity:**

Business & Financial Services: 3/2/17 [DP].

#### **Brief Summary of Substitute Bill**

- Defines virtual currency and requires disclosure of certain information to consumers.
- Requires a surety bond for online currency exchangers.
- Modifies various provisions of the Uniform Money Services Act.

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### HOUSE COMMITTEE ON BUSINESS & FINANCIAL SERVICES

**Majority Report:** Do pass. Signed by 9 members: Representatives Kirby, Chair; Reeves, Vice Chair; Vick, Ranking Minority Member; J. Walsh, Assistant Ranking Minority Member; Barkis, Blake, Jenkin, McCabe and Santos.

**Staff:** Robbi Kesler (786-7153).

#### **Background:**

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

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and may take action for 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.

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.

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.

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### **Summary of 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 the 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 to an amount not exceeding \$1 million. 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 an amount not to exceed \$1 million 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 for money transmitters.

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.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**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 provides updates to keep up with technology in the money transmitter and online currency exchange industries. The DFI has worked with stakeholders. This is identical to Substitute House Bill 1045 that previously passed the House of Representatives.

(Opposed) None.

**Persons Testifying:** Senator Angel, prime sponsor; and Charlie Clark, Department of Financial Institutions.

**Persons Signed In To Testify But Not Testifying:** None.