

SENATE BILL REPORT

SSB 5031

As Passed Senate, February 8, 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: Senate Committee on Financial Institutions & Insurance (originally sponsored by Senators Angel and Mullet; by request of Department of Financial Institutions).

Brief History:

Committee Activity: Financial Institutions & Insurance: 1/12/17, 1/12/17 [DPS].

Floor Activity:

Passed Senate: 2/08/17, 48-0.

Brief Summary of First Substitute Bill

- Defines virtual currency and requires the disclosure of certain information to consumers.
- Requires each online currency exchanger to maintain a surety bond.
- Makes definitional and clarifying changes for regulating money transmitters and currency exchangers under the Uniform Money Services Act.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: That Substitute Senate Bill No. 5031 be substituted therefor, and the substitute bill do pass.

Signed by Senators Angel, Chair; Ericksen, Vice Chair; Mullet, Ranking Minority Member; Kuderer.

Staff: Jeff Olsen

Background: The Department of Financial Institutions (DFI) regulates money transmission and currency exchange businesses under the Uniform Money Services Act (Act). The

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.

purpose of the Act is to establish a state system of licensure and regulation for the safe and sound operation of money transmission and currency exchange businesses and to protect the public interest.

Money transmission is the receipt of money for the purpose of transmitting or delivering money to another location. Currency exchange is the exchange of money of one government for money of another government. Various types of businesses are exempted from regulation under the Act including federal and state agencies, federally regulated boards of trade and commission merchants, clearing agencies, insurance companies, escrow agents, and other specified agencies.

Money transmitters are required to maintain a surety bond or other security of at least \$10,000 and not exceed \$550,000. The Director of the DFI may increase the amount of bond or security required up to \$1 million when necessary, if the financial condition of a money transmitter requires it. Currency exchangers are not required to maintain surety bonds.

Summary of First Substitute Bill: Virtual Currency. The definition of money transmission includes receiving virtual currency. A money transmitter licensee transmitting virtual currencies must hold like-kind virtual currencies in the same volume obligated to consumers. Virtual currency means a digital representation of value used as a medium of exchange, a unit of account, or a store of value. Virtual currency licensees must provide information to any person seeking to use the licensee's products or services including a schedule of fees and charges, whether the product or services are insured, whether the transfer is irrevocable, the licensee's liability for mistakes, and additional disclosures as required by the Director established in rule. When applying for a license, a virtual currency money transmitter must provide a third-party security audit of their electronic systems to the DFI.

Bond Requirements. Each online currency exchanger must maintain a surety bond in an amount based on the previous year's currency exchange volume. The minimum surety bond must be at least \$10,000 and not exceed \$50,000 and the surety bond must run to the state of Washington. The Director of the DFI may issue a temporary cease and desist order if an online currency exchanger does not maintain a surety bond in the required amount. The Director may increase the amount of the bond up to a maximum of \$1 million based on the nature and volume of business activities and the financial health of the company.

The ability for the DFI to increase bond requirements up to \$1 million for money transmitters may be based on the nature and volume of business activities in addition to the financial health of the company. Security in lieu of bonds is no longer available for money transmitters.

Exclusions from the Act. The following are excluded from regulation under the Act including a person:

- who is a contracted service provider of a financial institution that provides processing, clearing, or settlement services in connection with wire transfers, credit and debit card transactions, prepaid access transactions or similar fund transfers;
- that facilitates payment for goods and services using bank secrecy act regulated institutions;

- that transmits wages or employee benefits on behalf of employers when the money transmission or currency exchange is an ancillary service; or
- the lawful business of bookkeeping or accounting where money transmission or currency exchange is an ancillary service.

Additional Changes to the Act. Civil penalties are clarified to not exceed \$100 per violation per day for each day the violation is outstanding. The definition of stored value is changed to prepaid access. Prepaid access means access to money that has been paid in advance and can be retrieved through an electronic device or vehicle. Money transmission does not include the provision solely of connection services to the internet, telecommunication services, or network access. The DFI may provide to the public a list of authorized delegates of licensees regulated under the Act.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Original Bill : *The committee recommended a different version of the bill than what was heard.* PRO: The bill updates the Uniform Money Services Act to address changes and innovations in the industry, including the use of virtual currency. In developing the bill, the DFI has worked with a number of stakeholders including licensees and national trade associations. There are technical changes made to clarify how to regulate the transfer of virtual currency including definitions, consumer protections, and a third party security audit. Additional changes include exempting certain business models from the act that have reduced risk to consumers and are exempted in other states, like payroll processors, bookkeepers, and others where money transfer is just an ancillary service. A requirement to add surety bonds for online currency exchanges is added to protect consumers. The bill also allows the Director to increase the bond requirement based on the nature and volume of business activities.

Persons Testifying: PRO: Charlie Clark, Department of Financial Institutions.

Persons Signed In To Testify But Not Testifying: No one.