

1-1 By: Eltife S.B. No. 899  
 1-2 (In the Senate - Filed March 3, 2015; March 9, 2015, read  
 1-3 first time and referred to Committee on Business and Commerce;  
 1-4 March 31, 2015, reported favorably by the following vote: Yeas 7,  
 1-5 Nays 0; March 31, 2015, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7	X			
1-8				
1-9			X	
1-10			X	
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED  
 1-18 AN ACT

1-19 relating to the regulation of money services businesses; affecting  
 1-20 the prosecution of a criminal offense.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 151.003, Finance Code, is amended to  
 1-23 read as follows:

1-24 Sec. 151.003. EXCLUSIONS. The following persons are not  
 1-25 required to be licensed under this chapter:

1-26 (1) the United States or an instrumentality of the  
 1-27 United States, including the United States Post Office or a  
 1-28 contractor acting on behalf of the United States Post Office;

1-29 (2) a state or an agency, political subdivision, or  
 1-30 other instrumentality of a state;

1-31 (3) a federally insured financial institution, as that  
 1-32 term is defined by Section 201.101, that is organized under the laws  
 1-33 of this state, another state, or the United States;

1-34 (4) a foreign bank branch or agency in the United  
 1-35 States established under the federal International Banking Act of  
 1-36 1978 (12 U.S.C. Section 3101 et seq.);

1-37 (5) a person acting as an agent for an entity excluded  
 1-38 under Subdivision (3) or (4), to the extent of the person's actions  
 1-39 in that capacity, provided that:

1-40 (A) the entity is liable for satisfying the money  
 1-41 services obligation owed to the purchaser on the person's receipt  
 1-42 of the purchaser's money; and

1-43 (B) the entity and person enter into a written  
 1-44 contract that appoints the person as the entity's agent and the  
 1-45 person acts only within the scope of authority conferred by the  
 1-46 contract;

1-47 (6) a person that, on behalf of the United States or a  
 1-48 department, agency, or instrumentality of the United States, or a  
 1-49 state or county, city, or any other governmental agency or  
 1-50 political subdivision of a state, provides electronic funds  
 1-51 transfer services of governmental benefits for a federal, state,  
 1-52 county, or local governmental agency;

1-53 (7) a person that acts as an intermediary on behalf of  
 1-54 and at the direction of a license holder in the process by which the  
 1-55 license holder, after receiving money or monetary value from a  
 1-56 purchaser, either directly or through an authorized delegate,  
 1-57 transmits the money or monetary value to the purchaser's designated  
 1-58 recipient, provided that the license holder is liable for  
 1-59 satisfying the obligation owed to the purchaser;

1-60 (8) an attorney or title company that in connection  
 1-61 with a real property transaction receives and disburses domestic

2-1 currency or issues an escrow or trust fund check only on behalf of a  
 2-2 party to the transaction;

2-3 (9) a person engaged in the business of currency  
 2-4 transportation who is both a registered motor carrier under Chapter  
 2-5 643, Transportation Code, and a licensed armored car company or  
 2-6 courier company under Chapter 1702, Occupations Code, provided that  
 2-7 the person:

2-8 (A) only transports currency from a person to:  
 2-9 (i) the same person at another location; or  
 2-10 (ii) a financial institution to be  
 2-11 deposited in an account belonging to the same person; and

2-12 (B) does not otherwise engage in the money  
 2-13 transmission or currency exchange business without a license issued  
 2-14 under this chapter; and

2-15 (10) any other person, transaction, or class of  
 2-16 persons or transactions exempted by commission rule or any other  
 2-17 person or transaction exempted by the commissioner's order on a  
 2-18 finding that the licensing of the person is not necessary to achieve  
 2-19 the purposes of this chapter.

2-20 SECTION 2. Sections 151.302(a) and (b), Finance Code, are  
 2-21 amended to read as follows:

2-22 (a) A person may not engage in the business of money  
 2-23 transmission in this state or advertise, solicit, or represent  
 2-24 [hold itself out as a person] that the person engages in the  
 2-25 business of money transmission in this state unless the person:

2-26 (1) is licensed under this subchapter;  
 2-27 (2) is an authorized delegate of a person licensed  
 2-28 under this subchapter, appointed by the license holder in  
 2-29 accordance with Section 151.402;

2-30 (3) is excluded from licensure under Section 151.003;  
 2-31 or  
 2-32 (4) has been granted an exemption under Subsection  
 2-33 (c).

2-34 (b) For purposes of this chapter, ~~[+]~~  
 2-35 ~~[(1)]~~ a person engages in the business of money  
 2-36 transmission if the person ~~[conducts money transmission for persons~~  
 2-37 ~~located in this state and]~~ receives compensation or expects to  
 2-38 receive compensation, directly or indirectly, for conducting money  
 2-39 transmission [the transmissions; and  
 2-40 ~~[(2) a person solicits, advertises, or holds itself~~  
 2-41 ~~out as a person that engages in the business of money transmission~~  
 2-42 ~~if the person represents that the person will conduct money~~  
 2-43 ~~transmission for persons located in this state].~~

2-44 SECTION 3. Section 151.504(b), Finance Code, is amended to  
 2-45 read as follows:

2-46 (b) At the time an application for a currency exchange  
 2-47 license is submitted, an applicant must file with the department:

2-48 (1) an application fee in the amount established by  
 2-49 commission rule; and  
 2-50 (2) security in the amount required under ~~[of \$2,500~~  
 2-51 ~~that meets the requirements of]~~ Section 151.506.

2-52 SECTION 4. Section 151.506, Finance Code, is amended to  
 2-53 read as follows:

2-54 Sec. 151.506. SECURITY. (a) An applicant for a currency  
 2-55 exchange license must provide and a currency exchange license  
 2-56 holder must maintain at all times security in the amount applicable  
 2-57 to the applicant or license holder under this section. The security  
 2-58 must satisfy [of \$2,500 that satisfies] the requirements of and is  
 2-59 subject to Sections 151.308(c)-(j).

2-60 (b) An applicant must provide and a license holder must  
 2-61 maintain security in the amount of \$2,500 if the applicant will  
 2-62 conduct or the license holder conducts business with persons  
 2-63 located in this state exclusively at one or more physical locations  
 2-64 through in-person, contemporaneous transactions.

2-65 (c) Except as provided by Subsection (d), if Subsection (b)  
 2-66 does not apply to:

2-67 (1) the applicant, the applicant must provide security  
 2-68 in the amount that is the greater of:

2-69 (A) \$2,500; or

3-1 (B) an amount equal to one percent of the  
3-2 applicant's projected total dollar volume of currency exchange  
3-3 business in this state for the first year of licensure; or

3-4 (2) the license holder, the license holder must  
3-5 maintain security in the amount that is the greater of:

3-6 (A) \$2,500; or

3-7 (B) an amount equal to one percent of the license  
3-8 holder's total dollar volume of currency exchange business in this  
3-9 state for the preceding year.

3-10 (d) The maximum amount of security that may be required  
3-11 under Subsection (c) is \$1 million.

3-12 SECTION 5. Section 151.605(g), Finance Code, is amended to  
3-13 read as follows:

3-14 (g) The following persons are exempt from the requirements  
3-15 of Subsection (a), but the license holder must notify the  
3-16 commissioner not later than the 15th day after the date the change  
3-17 of control becomes effective:

3-18 (1) a person that acts as proxy for the sole purpose of  
3-19 voting at a designated meeting of the security holders or holders of  
3-20 voting interests of a license holder or controlling person;

3-21 (2) a person that acquires control of a license holder  
3-22 by devise or descent;

3-23 (3) ~~[a person that acquires control as a personal~~  
3-24 ~~representative, custodian, guardian, conservator, or trustee, or~~  
3-25 ~~as an officer appointed by a court or by operation of law;~~

3-26 ~~[(4)]~~ a person exempted in the public interest by rule  
3-27 of the commission or by order of the commissioner; and

3-28 (4) ~~[(5)]~~ a person that has previously complied with  
3-29 and received approval under this chapter or that was identified as a  
3-30 person in control in a prior application filed with and approved by  
3-31 the commissioner.

3-32 SECTION 6. Section 151.708(c), Finance Code, is amended to  
3-33 read as follows:

3-34 (c) An offense under this section may be prosecuted in [If  
3-35 the commissioner has reason to believe that a person has committed  
3-36 an offense under this section or any other state or federal law, the  
3-37 commissioner may file a criminal referral with the district  
3-38 attorney of] Travis County or in [an appropriate prosecuting  
3-39 attorney of] the county in which the offense is alleged to have been  
3-40 committed.

3-41 SECTION 7. Section 151.301(b)(7), Finance Code, is  
3-42 repealed.

3-43 SECTION 8. Section 151.605, Finance Code, as amended by  
3-44 this Act, applies only to a person that acquires control of a  
3-45 license holder under that section as a personal representative,  
3-46 custodian, guardian, conservator, or trustee or as an officer  
3-47 appointed by a court or by operation of law on or after the  
3-48 effective date of this Act. A person that acquired control of a  
3-49 license holder as a personal representative, custodian, guardian,  
3-50 conservator, or trustee or as an officer appointed by a court or by  
3-51 operation of law before the effective date of this Act is governed  
3-52 by the law in effect on the date the person acquired control, and  
3-53 the former law is continued in effect for that purpose.

3-54 SECTION 9. Section 151.708(c), Finance Code, as amended by  
3-55 this Act, applies only to an offense committed on or after the  
3-56 effective date of this Act. An offense committed before the  
3-57 effective date of this Act is governed by the law in effect when the  
3-58 offense was committed, and the former law is continued in effect for  
3-59 that purpose. For purposes of this section, an offense was  
3-60 committed before the effective date of this Act if any element of  
3-61 the offense occurred before that date.

3-62 SECTION 10. This Act takes effect September 1, 2015.

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