

BILL ANALYSIS

C.S.H.B. 2458
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Pensions, Investments & Financial Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The legislature established the state bullion depository with the comptroller of public accounts in 2015 for storage of precious metal assets in the form of bullion or specie by individuals, businesses, or state agencies. After significant research and stakeholder feedback, the comptroller completed the rulemaking process and fully implemented the depository. Through that process, the comptroller recognized the need to update existing statute to ensure the depository is administered in an efficient, prudent manner. C.S.H.B. 2458 seeks to provide for that update by revising laws relating to the Texas Bullion Depository and requiring the comptroller to adopt rules to carry out those laws.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 10 of this bill.

ANALYSIS

C.S.H.B. 2458 repeals provisions of the Money Services Act, Finance Code, that establish a depository agent license and regulate license holder activity and amends the Finance Code under that act to make conforming changes.

C.S.H.B. 2458 amends Government Code provisions relating to the Texas Bullion Depository. The bill redefines "depository agent" as a financial institution that has entered into an agreement with the depository to provide a retail location for the provision of depository services to the general public on behalf of the depository. The bill requires the comptroller of public accounts to adopt rules necessary to carry out statutory provisions relating to the depository. The bill removes the condition that the comptroller's appointment of the bullion depository administrator is with the advice and consent of the governor, lieutenant governor, and senate. The bill authorizes the administrator to employ, subject to the comptroller's approval, a deputy administrator or other subordinate officers or employees as necessary and appropriate to the efficient administration of the depository. The bill authorizes the comptroller to employ security officers to provide needed security services for the depository and to commission the officers as peace officers. The bill removes the specification that the forms of precious metals the comptroller may restrict as deposits are forms that conveniently lend themselves to measurement and accounting in units of troy ounces and standardized fractions of troy ounces.

C.S.H.B. 2458 revises and updates certain terms relating to the depository account activity. The bill changes the deadline by which the depository is required to deliver precious metal based on an account holder's authorized request from not later than five business days after the date on

which the request is made to not later than 10 business days after that date. The bill conditions the requirement that the depository allow a person to whom an account holder is transferring holdings to establish a depository account on the person being otherwise eligible to open a depository account under applicable laws and depository policy.

C.S.H.B. 2458 removes a depository agent as a person authorized to hold the contract for a depository account in the account records. The bill authorizes the depository to provide written notice of amendment of a deposit contract to an account holder electronically. The bill authorizes the comptroller to waive any fees, service charges, or penalties charged a depository account holder for a service or activity regarding a depository account, including a fee for an overdraft, an insufficient fund check or draft, or a stop payment order. The bill replaces the requirement that the depository enter into transactions and relationships with certain entities as the comptroller determines to be prudent and suitable to facilitate the operations of the depository and to further its purposes with an authorization to enter into such transactions and relationships. The bill authorizes the depository to advertise and promote the depository in any available media and to issue, sell, or license for sale promotional items approved by the administrator to further the purposes of the depository and to promote the depository. The bill authorizes the depository to set commercially reasonable prices for the items licensed or sold.

C.S.H.B. 2458 requires the depository to refer any matter relating to certain actions involving an attempt to control the ownership, disposition, or proceeds of a withdrawal, transfer, liquidation, or settlement of a depository account to the attorney general for resolution. The bill sets out provisions relating to the confidentiality of the depository's records with certain exceptions. The bill replaces a requirement for the depository to use depository agents for the provision of certain services to the public with an authorization to use such agents for such purposes.

C.S.H.B. 2458 repeals the following provisions of the Finance Code:

- Sections 151.002(b)(9-a), (9-b), and (9-c)
- Section 151.603(c-1)
- Subchapter J, Chapter 151

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2458 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute does not include an exemption of property held in the depository from creditors' claims.

The bill does not include an exception to the confidentiality of records relating to individual depository accounts or depository account holders for a current or prospective depository account holder.