

SUBJECT: Updating licensing, offenses related to money service businesses

COMMITTEE: Investments and Financial Services — favorable, without amendment

VOTE: 7 ayes — Parker, Longoria, Capriglione, Flynn, Landgraf, Pickett, Stephenson

0 nays

WITNESSES: For — None

Against — Michael Cargill

On — Daniel Wood, Texas Department of Banking; (*Registered, but did not testify*: Stephanie Newberg, Texas Department of Banking)

BACKGROUND: Finance Code, ch. 151 regulates the licensing of money service businesses, which deal with money transmission or currency exchange. Sec. 151.003 contains a list of entities that are exempt from the chapter's licensing requirements. The list is composed primarily of government agencies and the agents of money service businesses, including armored car drivers.

Under sec. 151.605(g)(3), a personal representative, custodian, guardian, conservator, trustee, or court appointed officer who gains legal control of a license holder is exempt from requirements related to change of control of a license holder. Under sec. 151.506, licensed money service businesses are required to maintain a \$2,500 security.

Finance Code, sec. 151.708(c) permits the finance commissioner to file a criminal referral with the appropriate prosecuting attorney if the commissioner suspects that a money service business has committed an offense under the chapter.

Some have expressed concern that several provisions in existing law governing money service businesses lack clarity or otherwise should be

updated to reflect the evolving nature of the industry.

DIGEST: HB 2676 would change several licensing requirements and criminal actions relating to money service businesses.

The bill would exempt an armored car driver from the licensing requirement if the driver transported currency only from a person or financial institution to another location or account belonging to the same person and was not otherwise engaged in the money transmission or currency exchange business.

The bill would maintain the security requirement at \$2,500 for license holders that conducted business exclusively at one or more physical locations in the state through in-person, contemporaneous transactions. For a currency exchange license holder that did not fit the above description, the bill would change the security requirement to be \$2,500 or 1 percent of the total dollar volume of currency the holder had exchanged in Texas in the preceding year, whichever was greater. For a license applicant that did not meet the above description, the security requirement would be \$2,500 or 1 percent of the total dollar value of currency the applicant expected to exchange in the first year of licensure. The maximum amount of security that could be required would be \$1 million.

A person who gained legal control of a license holder as a personal representative, custodian, guardian, conservator, trustee, or court appointed officer would no longer be exempt from requirements relating to the change of control of a license holder.

The bill would repeal a statutory provision that currently defines “receive” as obtaining possession of money in a manner that cannot be reversed through the exercise of routine contractual or statutory rights.

The bill also would allow an offense to be prosecuted in Travis County or the county in which a violation of licensing requirements occurred without the finance commissioner first making a criminal referral.

The bill would take effect September 1, 2015, and would apply only to offenses on or after that date.