

AN ACT

relating to the regulation of money services businesses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 151.002(b), Finance Code, is amended by adding Subdivision (20-a) to read as follows:

(20-a) "Tangible net worth" means the total value of all assets, minus any liabilities and intangible assets.

SECTION 2. Section 151.003, Finance Code, as amended by Chapters 1000 (H.B. 483) and 75 (S.B. 899), Acts of the 84th Legislature, Regular Session, 2015, is reenacted and amended to read as follows:

Sec. 151.003. EXCLUSIONS. Subject to Subchapter J, the following persons are not required to be licensed under this chapter:

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

(2) a state or an agency, political subdivision, or other instrumentality of a state;

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

(4) a foreign bank branch or agency in the United States established under the federal International Banking Act of

1 1978 (12 U.S.C. Section 3101 et seq.);

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

5 (A) the entity is liable for satisfying the money  
6 services obligation owed to the purchaser on the person's receipt  
7 of the purchaser's money; and

8 (B) the entity and person enter into a written  
9 contract that appoints the person as the entity's agent and the  
10 person acts only within the scope of authority conferred by the  
11 contract;

12 (6) a person that, on behalf of the United States or a  
13 department, agency, or instrumentality of the United States, or a  
14 state or county, city, or any other governmental agency or  
15 political subdivision of a state, provides electronic funds  
16 transfer services of governmental benefits for a federal, state,  
17 county, or local governmental agency;

18 (7) a person that acts as an intermediary on behalf of  
19 and at the direction of a license holder in the process by which the  
20 license holder, after receiving money or monetary value from a  
21 purchaser, either directly or through an authorized delegate,  
22 transmits the money or monetary value to the purchaser's designated  
23 recipient, provided that the license holder is liable for  
24 satisfying the obligation owed to the purchaser;

25 (8) an attorney or title company that in connection  
26 with a real property transaction receives and disburses domestic  
27 currency or issues an escrow or trust fund check only on behalf of a

1 party to the transaction;

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

7 (A) only transports currency [~~from a person to~~]:

8 (i) from a person to the same person at  
9 another location; [~~or~~]

10 (ii) from a person to a financial  
11 institution to be deposited in an account belonging to the same  
12 person; or

13 (iii) to a person from a financial  
14 institution after being withdrawn from an account belonging to the  
15 same person; and

16 (B) does not otherwise engage in the money  
17 transmission or currency exchange business or depository agent  
18 services business without a license issued under this chapter;

19 (9-a) a trust company, as defined by Section  
20 187.001(a), that is organized under the laws of this state; and

21 (10) any other person, transaction, or class of  
22 persons or transactions exempted by commission rule or any other  
23 person or transaction exempted by the commissioner's order on a  
24 finding that the licensing of the person is not necessary to achieve  
25 the purposes of this chapter.

26 SECTION 3. The heading to Section 151.2031, Finance Code,  
27 is amended to read as follows:

1           Sec. 151.2031. USE OF NATIONWIDE MULTISTATE [~~MORTGAGE~~]  
2 LICENSING SYSTEM AND REGISTRY.

3           SECTION 4. Sections 151.2031(a) and (b), Finance Code, are  
4 amended to read as follows:

5           (a) In this section, "Nationwide Multistate [~~Mortgage~~]  
6 Licensing System and Registry" or "nationwide registry" means a  
7 licensing system developed and maintained by the Conference of  
8 State Bank Supervisors or an affiliated organization to manage  
9 mortgage licenses and other financial services licenses, or a  
10 successor registry.

11           (b) The commissioner may require that a person submit  
12 through the Nationwide Multistate [~~Mortgage~~] Licensing System and  
13 Registry in the form and manner prescribed by the commissioner and  
14 acceptable to the registry any information or document or payment  
15 of a fee required to be submitted under this chapter or rules  
16 adopted under this chapter.

17           SECTION 5. Section 151.302(c), Finance Code, is amended to  
18 read as follows:

19           (c) On application and a finding that the exemption is in  
20 the public interest, the commissioner may exempt a person that:

21                 (1) incidentally engages in the money transmission  
22 business only to the extent reasonable and necessary to accomplish  
23 a primary business objective unrelated to the money transmission  
24 business;

25                 (2) does not advertise or offer money transmission  
26 services to the public except to the extent reasonable and  
27 necessary to fairly advertise or offer the person's primary

1 business services; and

2 (3) [~~either transmits money exclusively in connection~~  
3 ~~with commercial contracts in interstate commerce or does not charge~~  
4 ~~a fee to transmit money or~~] transmits money without a fee as an  
5 inducement for customer participation in the person's primary  
6 business.

7 SECTION 6. Section 151.304(b), Finance Code, is amended to  
8 read as follows:

9 (b) At the time an application for a money transmission  
10 license is submitted, an applicant must file with the department:

11 (1) an application fee in the amount established by  
12 commission rule;

13 (2) audited financial statements that are  
14 satisfactory to the commissioner for purposes of determining  
15 whether the applicant has the minimum net worth required under  
16 Section 151.307 and is likely to maintain the required minimum net  
17 worth if a license is issued; and

18 (3) security [~~in the amount of \$300,000,~~] that meets  
19 the requirements of Section 151.308, and an undertaking or  
20 agreement that the applicant will increase or supplement the  
21 security to equal the aggregate security required by the  
22 commissioner under that section before the issuance of the license  
23 and the start of operations.

24 SECTION 7. Section 151.307, Finance Code, is amended by  
25 amending Subsection (a) and adding Subsection (c) to read as  
26 follows:

27 (a) An applicant for a money transmission license must

1 possess, and a money transmission license holder must maintain at  
2 all times, a minimum net worth computed in accordance with  
3 generally accepted accounting principles of:

4 (1) \$100,000, if business is proposed to be or is  
5 conducted, directly or through an authorized delegate, at four or  
6 fewer locations; or

7 (2) \$500,000, if business is proposed to be or is  
8 conducted, directly or through an authorized delegate, at five or  
9 more locations or over the Internet.

10 (c) At least 50 percent of the applicant's or license  
11 holder's total net worth under this section must be tangible net  
12 worth.

13 SECTION 8. Section 151.308, Finance Code, is amended by  
14 amending Subsection (b) and adding Subsections (b-1) and (b-2) to  
15 read as follows:

16 (b) The amount of the required security is the greater of  
17 \$300,000 or an amount equal to one percent of the license holder's  
18 total yearly dollar volume of money transmission business in this  
19 state or the applicant's projected total volume of business in this  
20 state for the first year of licensure, up to a maximum of \$2  
21 million.

22 (b-1) The commissioner may increase the amount of security  
23 required of an applicant who intends to provide, or a license holder  
24 who is providing, third-party bill payments in conjunction with  
25 loan acceleration services, up to a total amount of \$2 million, by  
26 multiplying the amount of security required under this section by a  
27 factor of up to two, if the commissioner determines, with respect to

1 the applicant or license holder, that a higher amount of the  
2 required security is necessary to achieve the purposes of this  
3 chapter based on the factors listed under Section 151.307(b).

4 (b-2) When the amount of the required security exceeds \$1  
5 million, the applicant or license holder may, in the alternative,  
6 provide security in the amount of \$1 million, plus a dollar for  
7 dollar increase in the net worth of the applicant or license holder  
8 over the amount required under Section 151.307, up to a total amount  
9 of \$2 million.

10 SECTION 9. Section 151.702, Finance Code, is amended to  
11 read as follows:

12 Sec. 151.702. CEASE AND DESIST ORDERS FOR UNLICENSED  
13 PERSONS. (a) If the commissioner has reason to believe that an  
14 unlicensed person has engaged or is likely to engage in an activity  
15 for which a license is required under this chapter, the  
16 commissioner may order the person to cease and desist from the  
17 violation until the person is issued a license under this chapter.  
18 The commissioner's order is subject to Section 151.709, unless the  
19 order is issued as an emergency order. The commissioner may issue  
20 an emergency cease and desist order in accordance with Section  
21 151.710 if the commissioner finds that the person's violation or  
22 likely violation threatens immediate and irreparable harm to the  
23 public.

24 (b) A cease and desist order under this section may require  
25 the unlicensed person to take affirmative action to correct any  
26 condition resulting from or contributing to the activity or  
27 violation, including the payment of restitution to each resident of

1 this state damaged by the violation.

2 SECTION 10. The heading to Section 151.705, Finance Code,  
3 is amended to read as follows:

4 Sec. 151.705. CEASE AND DESIST ORDERS FOR LICENSE HOLDERS  
5 OR AUTHORIZED DELEGATES.

6 SECTION 11. Section 151.707(d), Finance Code, is amended to  
7 read as follows:

8 (d) In determining the amount of the penalty, the  
9 commissioner shall consider factors that include the seriousness of  
10 the violation, the person's compliance history, and the person's  
11 good faith in attempting to comply with this chapter, provided that  
12 if the person is found to have demonstrated wilful disregard under  
13 Subsection (a)(4), the trier of fact may [~~shall~~] recommend that the  
14 commissioner impose the maximum administrative penalty permitted  
15 under Subsection (c).

16 SECTION 12. (a) Sections 151.304, 151.307, and 151.308,  
17 Finance Code, as amended by this Act, apply to a new application for  
18 a money transmission license only if the application was submitted  
19 on or after the effective date of this Act. An application for a  
20 license submitted before the effective date of this Act is governed  
21 by the law in effect on the date the application was submitted, and  
22 the former law is continued in effect for that purpose.

23 (b) A person holding a money transmission license on  
24 September 1, 2017, who is not in compliance with the net worth  
25 requirements of Section 151.307, Finance Code, as amended by this  
26 Act, shall comply with the net worth requirements of that section  
27 not later than September 1, 2022. On written application and for



1 good cause shown, the banking commissioner of Texas may extend the  
2 period for compliance under this section for the money transmission  
3 license holder.

4 (c) Not later than July 1, 2018, a person holding a money  
5 transmission license on September 1, 2017, shall comply with the  
6 security requirements of Section 151.308, Finance Code, as amended  
7 by this Act.

8 (d) Sections 151.702 and 151.707, Finance Code, as amended  
9 by this Act, apply only to a violation that occurs on or after the  
10 effective date of this Act. A violation that occurs before that  
11 date is governed by the law in effect immediately before the  
12 effective date of this Act, and that law is continued in effect for  
13 that purpose.

14 SECTION 13. This Act takes effect September 1, 2017.

S.B. No. 1403

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 1403 passed the Senate on April 19, 2017, by the following vote: Yeas 31, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 1403 passed the House on May 19, 2017, by the following vote: Yeas 144, Nays 0, two present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor