

CHAPTER 355

H.B. No. 474

AN ACT

relating to the regulation of currency exchange and transmission businesses.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 3(c), Article 350, Revised Statutes, is amended to read as follows:

(c) A retailer, wholesaler, or service provider who, in the ordinary course of business, accepts currency of a country or government other than the United States in payment for goods sold or services provided is eligible for an exemption from licensing under this article. A person requesting an exemption under this subsection must annually file an application with the commissioner, accompanied by a nonrefundable license exemption application fee in an amount to be set by the commissioner to recover the cost of administering this subsection. [A person who engages in a currency exchange or transmission business only as an incidental part of the person's normal business or as an accommodation to clients or customers with whom the person transacts business in the normal course of business may request from the commissioner an exemption from this article.] The commissioner shall [may] grant an exemption to a person under this subsection if the commissioner determines that the person making the request is eligible under this subsection [does not engage in a currency

~~exchange or transmission business as a principal component of the person's daily business operations. A person who has been granted an exemption under this subsection annually shall certify to the commissioner that the person is maintaining the exempt status]. The commissioner in accordance with the examination provisions of this article may examine [or cause to be examined] a person to verify the [certification or] exempt status. The retailer, wholesaler, or service provider may not be exempted under this subsection or an exemption may be suspended or revoked if:~~

- (1) ~~the value of the goods or services purchased in a single transaction exceeds \$10,000;~~
- (2) ~~the change given or made as a result of the transaction exceeds \$100;~~
- (3) ~~an attempt is made to structure transactions in a way to evade the licensing requirements of this article or to avoid using a licensed currency exchange business;~~
- (4) ~~the retailer, wholesaler, or service provider is engaged in the business of cashing checks, drafts, or other monetary instruments for a fee or other consideration and is not otherwise exempted from licensing under this article; or~~
- (5) ~~the retailer, wholesaler, or service provider would not be eligible for a license under Section 8 of this article.~~

SECTION 2. Section 10, Article 350, Revised Statutes, is amended to read as follows:

Sec. 10. BOND. (a) A person who is licensed under this article shall post a bond with a qualified surety company doing business in this state *that is acceptable to the commissioner or an irrevocable letter of credit issued by a qualified financial institution that is acceptable to the commissioner. The bond or letter of credit shall be* ~~[for each license the person holds]~~ in an amount determined by the commissioner. The commissioner shall determine the amount of the bond *or letter of credit based on the dollar volume of the licensee's currency exchange or transmission business and the number of locations from which the person operates,* but the bond *or letter of credit* must be at least \$25,000.

(b) A ~~[The]~~ bond *or letter of credit posted by a licensee* must be conditioned that as long as the person holds the license the person will not violate this article or a rule adopted under this article. The beneficiary of the bond *or letter of credit* must be the Banking Department.

SECTION 3. Section 13(a), Article 350, Revised Statutes, is amended to read as follows:

(a) The commissioner shall cooperate with federal and state agencies in discharging the commissioner's responsibilities relating to the regulation of currency exchange or transmission businesses. The commissioner may:

- (1) arrange for the exchange of information among government officials concerning the regulation of a currency exchange or transmission business; ~~[and]~~
- (2) cooperate in and coordinate training programs concerning the regulation of currency exchange or transmission businesses; *and*
- (3) *assist state and federal agencies in their enforcement and investigatory activities and supply those agencies with documentation and information.*

SECTION 4. Section 16, Article 350, Revised Statutes, is amended to read as follows:

Sec. 16. INJUNCTION. The prosecuting attorney of the county in which a violation is alleged to have occurred, *the attorney general,* or the district attorney of Travis County may seek an injunction prohibiting the further operation of a currency exchange or transmission business if an investigation discloses that a person is operating a currency exchange or transmission business without a license or in violation of this article or rules adopted under this article.

SECTION 5. Section 20, Article 350, Revised Statutes, is amended to read as follows:

Sec. 20. CONFIDENTIAL INFORMATION. All information obtained by the Banking Department from a licensee relating to the financial condition of a licensee, whether obtained through examination or otherwise, except published statements, and all files and records of the Banking Department relating to a licensee are confidential and may not be disclosed by the commissioner or an officer or employee of the Banking Department. The commissioner may release information if:

- (1) the commissioner finds that immediate and irreparable harm is threatened to the licensee's customers or potential customers or the general public;

(2) the licensee consents before the release;

(3) the commissioner finds that release of the information is required in connection with *an administrative* [a] hearing *under this article* [~~before the Finance Commission~~], in which event information may be *released to the parties of that hearing* [~~distributed to the Finance Commission~~]; or

(4) the commissioner finds that the release is reasonably necessary for the protection of the public and in the interest of justice, in which event information may be distributed to representatives of an agency, department, or instrumentality of this state, any other state, or the federal government[, ~~provided the representatives state in writing under oath that they will maintain the confidentiality of the information~~].

SECTION 6. Section 8(e), Article 350, Revised Statutes, is repealed.

SECTION 7. Section 3, Article 350, Revised Statutes, is amended by adding Subsection (e) to read as follows:

(e) An attorney or title company receiving and disbursing only domestic currency or funds in connection with a real estate transaction on behalf of the principals to the transaction is exempt from the requirements of this article.

SECTION 8. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on March 25, 1993, by a non-record vote; the House concurred in Senate amendments to H.B. No. 474 on May 18, 1993, by a non-record vote; passed by the Senate, with amendments, on May 13, 1993: Yeas 30, Nays 0.

Approved May 30, 1993.

Effective Aug. 30, 1993, 90 days after date of adjournment.