

AMENDED IN SENATE APRIL 10, 2000  
AMENDED IN ASSEMBLY APRIL 21, 1999  
AMENDED IN ASSEMBLY APRIL 13, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 143**

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**Introduced by Assembly Member Calderon**  
**(Coauthors: Assembly Members Alquist, Gallegos, Honda,**  
**Knox, Longville, Papan, and Romero)**  
(Coauthors: Senators Dunn, McPherson, and Ortiz)

January 11, 1999

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An act to ~~add Section 1815.5 to~~ amend Sections 256, 1807, and 1815 of, and to add Sections 1815.2, 1815.4, 1815.6, and 1815.8 to, the Financial Code, relating to transmission of money abroad.

LEGISLATIVE COUNSEL'S DIGEST

AB 143, as amended, Calderon. Transmission of money abroad: fees and commissions.

Existing law provides for regulation and licensing by the Commissioner of Financial Institutions of persons engaging in the business of receiving money for the purpose of transmitting it or its equivalent abroad. ~~Under these provisions,~~ *The commissioner is required annually, through the Secretary of the Business, Transportation and Housing Agency, to report to the Governor and the Legislature certain financial institution information, including a list of persons licensed to transmit money abroad, as specified.*

*This bill would additionally require the commissioner to report the quarterly average of the rates of exchange provided by a licensed money transmitter, and to make that information available to the public on the department's Internet site.*

*Existing law requires every money transmitter to annually file with the commissioner an audit report for the fiscal year.*

*This bill would require a money transmitter to file certain additional information with respect to rates of exchange provided by the licensee during a quarter, as specified.*

*Existing law provides that a licensee is required to present a customer with a receipt clearly stating certain information relative to a transaction to transmit money abroad, including the rate of exchange, the amount of commission or fees, and the net exchange after all fees and commissions have been deducted.*

~~*This bill would prohibit money transmitters from including fees and commissions as a factor in the rate of exchange offered to customers. It would require fees and commissions to be clearly stated apart from the rate of exchange as the total cost of conducting a money transmission transaction condition that requirement upon the transmission transaction being involved or connected with the exchange of currency of one country into the currency of another country. It would require a notice as to the application of a currency exchange rate, as specified. It would also require all window, exterior, and interior signs on the transmitter's office to include a currency exchange rate disclosure notice, as specified. Written advertisements would be required to include that disclosure notice. A money transmitter would be required to maintain a toll-free telephone number providing current rates of exchange information in the language principally spoken in any country to which 30% or more of the total annual transmissions of money are made from this state by the money transmitter.*~~

*Existing law provides that a violation or failure to comply with the provisions regulating persons transmitting money abroad is a crime.*



This bill, by expanding the duties of these regulated persons, would thereby expand the scope of an existing crime and thus would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 ~~SECTION 1. (a) The Legislature finds and declares~~
- 2 *SECTION 1. Section 256 of the Financial Code is*
- 3 *amended to read:*
- 4 256. On or before May 31 of each year, the
- 5 commissioner shall, through the Secretary of the
- 6 Business, Transportation and Housing Agency, report to
- 7 the Governor and to the Legislature. The report shall
- 8 contain the following information:
- 9 (a) A list of the California state banks that were
- 10 authorized by the commissioner to transact business as of
- 11 the end of the preceding calendar year.
- 12 (b) A list of the foreign (other nation) banks that were
- 13 licensed by the commissioner to maintain offices in
- 14 California as of the end of the preceding calendar year.
- 15 (c) A list of the California state savings associations
- 16 that were authorized by the commissioner to transact
- 17 business as of the end of the preceding calendar year.
- 18 (d) A list of the foreign savings associations that were
- 19 authorized by the commissioner to maintain offices in
- 20 California as of the end of the preceding calendar year.
- 21 (e) A list of the California state credit unions that were
- 22 authorized by the commissioner to transact business as of
- 23 the end of the preceding calendar year.
- 24 (f) A list of the credit unions organized and qualified
- 25 as credit unions in other states of the United States that



1 were certified by the commissioner to act as credit unions  
2 in California as of the end of the preceding calendar year.

3 (g) A list of the California state industrial loan  
4 companies that were authorized by the commissioner to  
5 transact business as of the end of the preceding calendar  
6 year.

7 (h) (1) A list of the persons that were licensed by the  
8 commissioner *to transact business* under Chapter 14  
9 (commencing with Section ~~1800~~, 1800) *as of the end of*  
10 *the preceding calendar year.*

11 (2) *For each person listed in accordance with*  
12 *paragraph (1), the quarterly average of the rates of*  
13 *exchange provided by the person to customers as*  
14 *reported to the commissioner under paragraph (4) of*  
15 *subdivision (d) of Section 1807 for the preceding calendar*  
16 *year.*

17 (i) A list of the persons that were licensed by the  
18 commissioner under Chapter 14A (commencing with  
19 Section 1851), Division 15 (commencing with Section  
20 31000), or Division 16 (commencing with Section 33000)  
21 to transact business as of the end of the preceding  
22 calendar year.

23 (†)

24 (j) In case during the preceding calendar year the  
25 commissioner took possession of the property and  
26 business of any California state bank, foreign (other  
27 nation) bank, savings association, credit union, industrial  
28 loan company, or person licensed under any of the laws  
29 cited in ~~subdivision (h)~~ *subdivisions (h) and (i)* to  
30 transact business, a list of those California state banks,  
31 foreign (other nation) banks, savings associations, credit  
32 unions, industrial loan companies, or licensees.

33 (†)

34 (k) In case at any time during the preceding calendar  
35 year the commissioner was the liquidator of any  
36 California state banks, foreign (other nation) banks,  
37 savings associations, credit unions, or industrial loan  
38 companies, or persons licensed under any of the laws  
39 cited in ~~subdivision (h)~~ *subdivisions (h) and (i)* to  
40 transact business, a list of those California state banks,



1 foreign (other nation) banks, savings associations, credit  
2 unions, industrial loan companies, or licensees.

3 ~~(k)~~

4 (l) Other information as the commissioner deems  
5 appropriate.

6 *SEC. 2. Section 1807 of the Financial Code is amended*  
7 *to read:*

8 1807. (a) The commissioner may by order or  
9 regulation grant exemptions from this section in *any* case  
10 where the commissioner finds that the requirements of  
11 this section are not necessary.

12 (b) Each licensee shall, within 90 days after the end of  
13 each fiscal year, or within such extended time as the  
14 commissioner may prescribe, file with the commissioner  
15 an audit report for the fiscal year.

16 (c) The audit report called for in subdivision (b) shall  
17 comply with all of the following provisions:

18 (1) The audit report shall contain such audited  
19 financial statements of the licensee for or as of the end of  
20 the fiscal year prepared in accordance with generally  
21 accepted accounting principles and such other  
22 information as the commissioner may require.

23 (2) The audit report shall be based upon an audit of the  
24 ~~bank~~ licensee conducted in accordance with generally  
25 accepted auditing standards and such other  
26 requirements as the commissioner may prescribe.

27 (3) The audit report shall be prepared by an  
28 independent certified public accountant or independent  
29 public accountant who is not unsatisfactory to the  
30 commissioner.

31 (4) The audit report shall include or be accompanied  
32 by a certificate of opinion of the independent certified  
33 public accountant or independent public accountant that  
34 is satisfactory in form and content to the commissioner.  
35 If the certificate or opinion is qualified, the commissioner  
36 may order the licensee to take such action as the  
37 commissioner may find necessary to enable the  
38 independent or certified public accountant or  
39 independent public accountant to remove the  
40 qualification.



1 (d) Each licensee shall, not more than 45 days after the  
2 end of each quarter (~~except the fourth quarter of its fiscal~~  
3 ~~year~~), or within a *any* longer period as *that* the  
4 commissioner may by regulation or order specify, file  
5 with the commissioner a report containing all of the  
6 following:

7 (1) ~~Financial~~—*Except for a report for the fourth*  
8 *quarter, financial* statements, including balance sheet,  
9 income statement, statement of changes in shareholders'  
10 equity, and statement of cash flows, for, or as of the end  
11 of, that fiscal quarter, verified by two of the licensee's  
12 principal officers. The verification shall state that each of  
13 the officers making the verification has a personal  
14 knowledge of the matters in the report and that each of  
15 them believes that each statement on the report is true.

16 (2) The current address of the headquarters office and  
17 each branch office of the licensee and each agent at which  
18 the licensee receives transmission money in this state.

19 (3) The name and business address of each person who  
20 acted as an agent of the licensee during the quarter in this  
21 state, and if such person is no longer an agent of the  
22 licensee, the date on which such relationship terminated.

23 (4) ~~Such~~—*With respect to rates of exchange provided*  
24 *by the licensee during the quarter, all of the following:*

25 (A) *A list of the foreign currencies into which*  
26 *transmission money was converted by the licensee.*

27 (B) *For each foreign currency identified in*  
28 *accordance with subparagraph (A), the average rate of*  
29 *exchange given to customers during the quarter. For the*  
30 *purposes of this subparagraph, "average rate of*  
31 *exchange" for the quarter means the sum of the average*  
32 *daily rates of exchange given to customers with respect*  
33 *to the foreign currency during the quarter, divided by the*  
34 *total number of days the rates of exchange were given*  
35 *during the quarter.*

36 (5) Any other information ~~as~~ *that* the commissioner  
37 may by regulation or order require.

38 (e) Each licensee shall file with the commissioner ~~such~~  
39 other reports as and when the commissioner may by  
40 regulation or order require.



1 SEC. 3. Section 1815 of the Financial Code is amended  
2 to read:

3 1815. (a) ~~The~~ If a transmission transaction involves  
4 or is connected with the exchange of currency of one  
5 country into the currency of another country, the receipt  
6 presented to ~~each~~ the customer for ~~each~~ the transaction  
7 pursuant to subdivision (b) of Section 1810.5 shall clearly  
8 state all of the rate following:

9 (1) The rate of exchange for the particular transaction,  
10 the amount of commission or fees, and the net exchange  
11 after all fees and commissions have been deducted.

12 (2) ~~The receipt shall also state the total amount of~~  
13 ~~currency presented by the customer and the total~~  
14 ~~amount to be delivered to the beneficiary designated by~~  
15 ~~the customer. These disclosures shall be in English and in~~  
16 ~~the same language as that principally used by the licensee~~  
17 ~~or any agent of the licensee to advertise, solicit, or~~  
18 ~~negotiate, either orally or in writing, at that office if other~~  
19 ~~than English.~~

20 ~~(b) All window and exterior signs concerning the rates~~  
21 ~~of exchange shall clearly state in English and in the same~~  
22 ~~language principally used by the licensee or any agent of~~  
23 ~~the licensee to advertise, solicit, or negotiate, either orally~~  
24 ~~or in writing, at that office if other than English, the rate~~  
25 ~~of exchange for exchanging the currency of the United~~  
26 ~~States for foreign currency. All interior signs and all~~  
27 ~~advertising, if rates are quoted, shall clearly state the rates~~  
28 ~~of exchange for exchanging the currency of the United~~  
29 ~~States for foreign currency and shall state all commissions~~  
30 ~~and fees charged on all transactions.~~

31 ~~(c) At each office of each licensee and each agent,~~  
32 ~~there shall be disclosed in those offices in this state the~~  
33 ~~information specified in subdivision (b) in English and in~~  
34 ~~the same language principally used by the licensee or any~~  
35 ~~agent of the licensee to advertise, solicit, or negotiate,~~  
36 ~~either orally or in writing, with respect to receiving~~  
37 ~~money or its equivalent for transmission to a foreign~~  
38 ~~country at that office.~~

39 (d)



1 (3) A notice in a size at least equal to 10-point bold type  
2 which reads substantially as follows:

3 “In addition to the transfer fees applicable to this  
4 transaction, a currency exchange rate will be applied.  
5 United States currency is converted to foreign currency  
6 at an exchange rate set by \_\_\_\_\_. Any difference  
7 between the rate given to customers and the rate  
8 received by \_\_\_\_\_ will be kept by \_\_\_\_\_, in addition  
9 to the transfer fees.

10 Please ask the clerk for information concerning the  
11 currency exchange rate applicable to your transaction.  
12 You may also find out the current foreign exchange rates  
13 being provided by \_\_\_\_\_ to its customers by calling  
14 toll-free 1-800-XXX-XXXX.

15 For questions about currency exchange rates and  
16 California law, please contact the Department of  
17 Financial Institutions at 1-800-XXX-XXXX. For  
18 information regarding the average rates of exchange  
19 offered by this and other money transmitters, please call  
20 the department or visit their Internet web site at  
21 www.xxxxxxx.ca.gov.”

22 The notice shall be printed centered and at the top of  
23 the front of the first page of the receipt provided to the  
24 consumer or may be placed on a subsequent page of the  
25 form or receipt but only if the following statement is  
26 placed in 10-point bold type at the top center of the first  
27 page:

28 “See page \_\_\_\_\_ for important information regarding  
29 the currency exchange rate applicable to this  
30 transaction.”

31 (b) The disclosures required by this section shall be in  
32 English and in the same language as that principally used  
33 by the licensee or any agent of the licensee to advertise,  
34 solicit, or negotiate, either orally or in writing, at that  
35 office if other than English.

36 (c) If the customer does not specify at the time the  
37 currency is presented to the licensee or its agent the  
38 ~~country~~ to foreign currency into which the currency is to  
39 be transmitted, the rate of exchange for the transaction  
40 is not required to be set forth on the receipt.



1 SEC. 4. Section 1815.2 is added to the Financial Code,  
2 to read:

3 1815.2. (a) All window, exterior, and interior signs on  
4 the premises of any office in this state of a licensee or any  
5 agent of a licensee on which a commission or fee is quoted  
6 shall include the following disclosure in a size at least  
7 one-third of the size of the print used for stating the  
8 commission, fee, or rate of exchange:

9 “In addition to the transfer fees applicable to this  
10 transaction, a currency exchange rate set by \_\_\_\_\_ will  
11 be applied. Call 1-800-\*\*\*-\*\*\*\* or ask the clerk to find out  
12 the current foreign exchange rate being provided to its  
13 customers.”

14 (b) The information required to be provided under  
15 subdivision (a) shall be provided in English and in the  
16 same language as that principally used by the licensee or  
17 any agent of the licensee to advertise, solicit, or negotiate,  
18 either orally or in writing, at that office if other than  
19 English.

20 SEC. 5. Section 1815.4 is added to the Financial Code,  
21 to read:

22 1815.4. (a) In this section, “advertisement” means  
23 any oral or written communication used by a licensee for  
24 the purpose of promoting its money transmission business  
25 or soliciting money transmission business, including any  
26 communication by means of the radio, television,  
27 Internet, recorded telephonic messages, or similar  
28 communication media, or printed in a newspaper,  
29 magazine, or circular, but does not include exterior and  
30 interior signs on the premises of an office of a licensee or  
31 an agent of a licensee referred to in Section 1815.2.

32 (b) All advertisements used by a licensee in  
33 connection with its business of receiving money for  
34 transmission that state the amount of any commission,  
35 fee, or rate of exchange charged by the licensee shall  
36 include in the same language or languages principally  
37 used in the advertisement a disclosure which reads as  
38 follows:

39 “In addition to the transfer fees applicable to this  
40 transaction, a currency exchange rate set by \_\_\_\_\_ will



1 *be applied. Call 1-800-\*\*\*-\*\*\*\* to find out the current*  
2 *foreign currency exchange rate being provided to its*  
3 *customers.”*

4 *(c) Written advertisements shall include the*  
5 *disclosure required by subdivision (b) in a size at least*  
6 *one-third of the size of the print used for stating the*  
7 *commission, fee, or rate of exchange, but in no event in*  
8 *less than 10-point type.*

9 *SEC. 6. Section 1815.6 is added to the Financial Code,*  
10 *to read:*

11 *1815.6. (a) Each licensee shall maintain a toll-free*  
12 *telephone number at which it shall provide current rates*  
13 *of exchange offered by the licensee.*

14 *(b) The licensee shall provide this information in the*  
15 *language principally spoken in any country to which 30*  
16 *percent or more of the total annual transmissions of*  
17 *money are made from this state by the licensee.*

18 *(c) Each toll-free telephone number that licensees are*  
19 *required to maintain pursuant to this section shall be*  
20 *available to receive calls at all times during which money*  
21 *transmission services are provided by the licensee.*

22 *SEC. 7. Section 1815.8 is added to the Financial Code,*  
23 *to read:*

24 *1815.8. The commissioner shall make available to the*  
25 *public on the department’s Internet site that information*  
26 *submitted by licensees pursuant to paragraph (4) of*  
27 *subdivision (d) of Section 1807.*

28 ~~*that whereas existing law requires money transmitters to*~~  
29 ~~*clearly state on each customer receipt the rate of*~~  
30 ~~*exchange for a particular transaction, the amount of*~~  
31 ~~*commission or fees, and the net exchange after all fees*~~  
32 ~~*and commissions have been deducted, it is in best*~~  
33 ~~*interests of consumers to clarify that money transmitters*~~  
34 ~~*cannot charge hidden commissions or fees through the*~~  
35 ~~*use of arbitrarily set rates of exchange.*~~

36 ~~*(b) The Legislature further finds and declares that*~~  
37 ~~*consumers who use money transmitters often have*~~  
38 ~~*limited options for transmitting money to foreign*~~  
39 ~~*countries. For this reason, it is necessary to clarify that*~~  
40 ~~*money transmitters cannot be permitted to include fees*~~



1 ~~and commissions through the use of arbitrarily set rates~~  
2 ~~of exchange, and should be required to compete on the~~  
3 ~~explicitly stated cost of transmitting the money to a~~  
4 ~~foreign country.~~

5 ~~SEC. 2. Section 1815.5 is added to the Financial Code,~~  
6 ~~to read:~~

7 ~~1815.5. No person who engages in the business of~~  
8 ~~receiving money for the purpose of transmitting the same~~  
9 ~~or its equivalent to foreign countries shall include fees~~  
10 ~~and commissions as a factor in the rate of exchange~~  
11 ~~offered to customers. All fees and commissions shall be~~  
12 ~~clearly stated apart from the rate of exchange as the total~~  
13 ~~cost of conducting a money transmission transaction.~~

14 ~~SEC. 3.~~

15 ~~SEC. 8. No reimbursement is required by this act~~  
16 ~~pursuant to Section 6 of Article XIII B of the California~~  
17 ~~Constitution because the only costs that may be incurred~~  
18 ~~by a local agency or school district will be incurred~~  
19 ~~because this act creates a new crime or infraction,~~  
20 ~~eliminates a crime or infraction, or changes the penalty~~  
21 ~~for a crime or infraction, within the meaning of Section~~  
22 ~~17556 of the Government Code, or changes the definition~~  
23 ~~of a crime within the meaning of Section 6 of Article~~  
24 ~~XIII B of the California Constitution.~~

