

AMENDED IN ASSEMBLY MAY 2, 2000
AMENDED IN ASSEMBLY APRIL 24, 2000
AMENDED IN ASSEMBLY APRIL 11, 2000
AMENDED IN ASSEMBLY MARCH 27, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2420

Introduced by Assembly Member Firebaugh
(Principal coauthor: Senator Ortiz)
(Coauthors: Assembly Members Havice and Knox)
(Coauthor: Senator Murray)

February 24, 2000

An act to amend Sections 1807, ~~1815, and 1826~~ *and 1815* of the Financial Code, relating to money transmissions.

LEGISLATIVE COUNSEL'S DIGEST

AB 2420, as amended, Firebaugh. Money transmitters: transmission of money abroad.

Existing law provides for the regulation of transmission of money abroad by licensed money transmitters.

~~This bill would require licensed money transmitters to file with the Commissioner of Financial Institutions a report of the average exchange rates offered during a quarterly period and the average cost of foreign currency paid by the licensee for the previous quarter for each currency exchanged. The Department of Financial Institutions would be required to compile on a quarterly basis a report listing the exchange rates~~

~~for each licensee and the average cost of foreign currency paid by the licensee for the previous quarter for each currency exchanged. A violation of the provisions regulating money transmitters is a crime.~~

This bill would ~~also~~ require that *the receipt presented to each customer by a money transmitter state the foreign exchange rate spread for the transaction, the total amount of currency presented that is kept by the money transmitter due to the foreign exchange rate spread, and the total amount to be delivered to the beneficiary in both United States dollars and in the applicable currency units.* This bill would also require all signs and advertising by a licensee for the transmission of money in which any commission or fee is quoted state the current rates of exchange offered for converting United States currency to foreign currency for each currency that comprised more than 30% of money transmission transactions, as specified. This bill would additionally require a licensee to post in each of its offices a disclosure concerning the retail and wholesale currency exchange rates, as specified. ~~The bill would also provide for civil remedies for persons injured by licensees, including the award of civil penalties for the violation of certain provisions regulating licensed money transmitters and would make certain unlawful business practice provisions applicable to certain of the bill's disclosure requirements.~~ Because a violation of the *bill's disclosure provisions governing unlawful business practices is a misdemeanor would be punishable as a crime*, this bill would enlarge the scope of an existing crime and would thereby 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. Section 1807 of the Financial Code is
2 amended to read:

3 1807. (a) The commissioner may by order or
4 regulation grant exemptions from this section in any case
5 in which the commissioner finds that the requirements of
6 this section are not necessary.

7 (b) Each licensee shall, within 90 days after the end of
8 each fiscal year, or within any extended time as the
9 commissioner may prescribe, file with the commissioner
10 an audit report for the fiscal year.

11 (c) The audit report required by subdivision (b) shall
12 comply with all of the following provisions:

13 (1) The audit report shall contain audited financial
14 statements of the licensee for or as of the end of the fiscal
15 year prepared in accordance with generally accepted
16 accounting principles and any other information as the
17 commissioner may require.

18 (2) The audit report shall be based upon an audit of the
19 licensee conducted in accordance with generally
20 accepted auditing standards and any other requirements
21 as the commissioner may prescribe.

22 (3) The audit report shall be prepared by an
23 independent certified public accountant or independent
24 public accountant who is satisfactory to the
25 commissioner.

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

36 (d) Each licensee shall, not more than 45 days after the
37 end of each quarter (except the fourth quarter of its fiscal
38 year), or within a longer period as the commissioner may



1 by regulation or order specify, file with the commissioner
2 a report containing all of the following:

3 (1) Financial statements, including balance sheet,
4 income statement, statement of changes in shareholders'
5 equity, and statement of cash-flows, for, or as of the end
6 of, that fiscal quarter, verified by two of the licensee's
7 principal officers. The verification shall state that each of
8 the officers making the verification has a personal
9 knowledge of the matters in the report and that each of
10 them believes that each statement on the report is true.

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

14 (3) The name and business address of each person who
15 acted as an agent of the licensee during the quarter in this
16 state, and if that person is no longer an agent of the
17 licensee, the date on which the relationship terminated.

18 (4) Other information that the commissioner may by
19 regulation or order require.

20 (e) Each licensee shall file with the commissioner
21 other reports as and when the commissioner may by
22 regulation or order require.

23 ~~(f) Each licensee engaged in the business of money~~
24 ~~transmission shall, not more than 10 days after the end of~~
25 ~~each quarter, or within a longer period as the~~
26 ~~commissioner may by regulation or order specify, file~~
27 ~~with the commissioner a written report containing the~~
28 ~~average of the rates of exchange offered to its customers~~
29 ~~during that quarter for converting United States~~
30 ~~currency to foreign currency, for each currency~~
31 ~~exchanged by that licensee. The report shall also include~~
32 ~~the average cost of foreign currency paid by the licensee,~~
33 ~~for each currency exchanged by that licensee, for the~~
34 ~~previous quarter.~~

35 ~~On a quarterly basis, the Department of Financial~~
36 ~~Institutions shall compile a report listing the average of~~
37 ~~the rates of exchange offered to its customers during that~~
38 ~~quarter by each licensee engaged in the business of~~
39 ~~money transmission for converting United States~~
40 ~~currency to foreign currency, for each currency~~



1 ~~exchanged by that licensee. This report shall also include~~
2 ~~the average costs of foreign currency paid by each~~
3 ~~licensee, for each currency exchanged by that licensee,~~
4 ~~for the previous quarter. This information shall be posted~~
5 ~~each quarter on the department's website and reported~~
6 ~~to the Legislature annually.~~

7 SEC. 2. Section 1815 of the Financial Code is amended
8 to read:

9 1815. (a) The receipt presented to each customer for
10 each transaction pursuant to subdivision (b) of Section
11 1810.5 shall clearly state the rate of exchange for the
12 particular transaction, *the foreign exchange rate spread*
13 *for that particular transaction*, the amount of commission
14 or fees, and the net exchange after all fees and
15 commissions have been deducted. The receipt shall also
16 state the total amount of currency presented by the
17 customer *to the licensee or the agent of the licensee, the*
18 *total amount of currency presented by the customer that*
19 *is kept by the licensee or the agent of the licensee due to*
20 *the foreign exchange spread* and the total amount to be
21 delivered to the beneficiary designated by the customer
22 *in United States dollars and in the currency used in the*
23 *receiving country*. These disclosures shall be in English
24 and in the same language as that principally used by the
25 licensee or any agent of the licensee to advertise, solicit,
26 or negotiate, either orally or in writing, at that office if
27 other than English.

28 (b) All window and exterior signs concerning the rates
29 of exchange shall clearly state in English and in the same
30 language principally used by the licensee or any agent of
31 the licensee to advertise, solicit, or negotiate, either orally
32 or in writing, at that office if other than English, the rate
33 of exchange for exchanging the currency of the United
34 States for foreign currency. All interior signs and all
35 advertising, if rates are quoted, shall clearly state the rates
36 of exchange for exchanging the currency of the United
37 States for foreign currency and shall state all commissions
38 and fees charged on all transactions.

39 (c) At each office of each licensee and each agent,
40 there shall be disclosed in those offices in this state the



1 information specified in subdivision (b) in English and in
2 the same language principally used by the licensee or any
3 agent of the licensee to advertise, solicit, or negotiate,
4 either orally or in writing, with respect to receiving
5 money or its equivalent for transmission to a foreign
6 country at that office.

7 (d) If the customer does not specify at the time the
8 currency is presented to the licensee or its agent the
9 country to which the currency is to be transmitted, the
10 rate of exchange for the transaction is not required to be
11 set forth on the receipt.

12 (e) In all signs and advertisements of a licensee or of
13 any agent of the licensee in which any commission or fee
14 is quoted for money transmission services, the licensee or
15 the agent of the licensee shall also include the current
16 rates of exchange offered to customers for converting
17 United States currency to foreign currency for each
18 currency that comprised more than 30 percent of money
19 transmission transactions at that location of the licensee
20 or agent of the licensee during the preceding quarter.

21 In the event of extreme currency fluctuations and
22 instability, a licensee may petition the commissioner to
23 temporarily suspend this requirement, and the
24 commissioner may temporarily suspend the requirement
25 for a period not to exceed seven days.

26 (f) The following statement shall be clearly posted at
27 each office of a licensee or any agent of the licensee in a
28 size equal to at least 16-point boldface type both in
29 English and in the same language principally used at that
30 office by the licensee or any agent of the licensee to
31 advertise, solicit, or negotiate, either orally or in writing,
32 transactions relating to receiving money or its equivalent
33 for transmission to a foreign country:

34 “In addition to the transfer fees applicable to this
35 transaction, a currency exchange rate set by (name of
36 licensee) for the conversion of United States currency to
37 foreign currency will be applied. This retail exchange
38 rate may not be the same as the wholesale exchange rate
39 at which (name of licensee) purchases foreign currency.
40 This difference, or spread, is often kept by (name of



1 licensee).— For your information, this difference, or
2 spread, of (name of licensee) amounted to an average of
3 (XXX) percent of each transaction for the last quarter.” ”

4 In addition, this disclosure shall state the difference, or
5 spread, for each currency that comprised more than 30
6 percent of money transmission transactions at that
7 location of the licensee or agent of the licensee during the
8 preceding quarter.

9 ~~SEC. 3.~~ Section 1826 of the Financial Code is amended
10 to read:

11 ~~1826.~~ (a) Except as provided in subdivision (e) of
12 Section 1815.5, any person who violates this chapter shall
13 be liable to the people of the State of California in an
14 action brought by the commissioner for a civil penalty not
15 to exceed five thousand dollars (\$5,000) for each violation
16 or, in the case of a continuing violation, one thousand
17 dollars (\$1,000) for each day or part thereof during which
18 the violation continues.

19 (b) Any violation of the disclosure provisions of this
20 chapter constitutes an unlawful business practice within
21 the meaning of Section 17500 of the Business and
22 Professions Code.

23 (e) A cause of action for a violation of this chapter may
24 be commenced in small claims court if it does not exceed
25 the jurisdiction of that court, or in any other court of
26 competent jurisdiction. In that cause of action, the
27 customer shall be entitled to recover any and all moneys
28 received for transmission to a foreign country, plus any
29 fees and charges paid by the customer.

30 Except as provided in subdivision (e) of Section 1815.5,
31 a court of competent jurisdiction may additionally impose
32 a penalty payable to the customer in an amount not to
33 exceed one thousand dollars (\$1,000) for each violation.
34 The court shall also award to the customer, if he or she is
35 the prevailing party, court costs and reasonable
36 attorney’s fees.

37 ~~SEC. 4.~~

38 ~~SEC. 3.~~ No reimbursement is required by this act
39 pursuant to Section 6 of Article XIII B of the California
40 Constitution because the only costs that may be incurred



1 by a local agency or school district will be incurred
2 because this act creates a new crime or infraction,
3 eliminates a crime or infraction, or changes the penalty
4 for a crime or infraction, within the meaning of Section
5 17556 of the Government Code, or changes the definition
6 of a crime within the meaning of Section 6 of Article
7 XIII B of the California Constitution.

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9 **CORRECTIONS**

10 **Digest — Page 2.**

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