

SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. House Bill 850

PRINTER NO. 3932

AMOUNT

\$267,000 Revenue Gain

FUND

Banking Fund

DATE INTRODUCED

March 26, 2015

PRIME SPONSOR

Representative Mackenzie

DESCRIPTION AND PURPOSE OF BILL

House Bill 850 amends the Money Transmission Business License Law of 1965, known as the Money Transmitter Act, to update and modernize the act to be more consistent with other Department of Banking and Securities licensing acts.

The act has been amended only once since 1977, and new technologies and older administrative and enforcement provisions have made the statute antiquated. The legislation rewrites many of the definitions in the act, including the definition of "transmittal instrument", in order to clarify that newer technologies are covered under this act. Examples of such technologies include debit cards, stored value cards, electronic transfers and closed loop or hybrid closed loop systems. House Bill 850 also updates the statute to make reference to the Department of Banking and Securities.

The legislation provides that the act shall not apply to transmissions between business entities in connection with commercial contracts, unless the contracts involve money transmission for personal or household purposes involving individuals.

House Bill 850 amends the section dealing with exemptions to clarify that all federally insured depository institutions (including out-of-state institutions) and their agents are exempt from licensure under the Act.

The act is expanded to exempt from licensure agents of governmental agencies that are disbursing government benefits and agents that receive payments from individuals on behalf of persons that are creditors, public utilities or providers of goods and services. In contrast, the legislation removes the partial exemption for accelerated mortgage payment providers.

In order to qualify for licensure, the act requires tangible net worth of at least \$500,000 and includes updated and stronger license denial provisions consistent with the provisions in the more modern Departmental licensing acts.

SENATE APPROPRIATIONS COMMITTEE

FISCAL NOTE

House Bill 850 raises the application fee from \$2,000 to \$5,000 and also raises the renewal fee from \$2,000 to \$5,000. The term of a license is changed, from expiration on January 1st of the year following issuance, to not more than fourteen months as determined by the department.

The legislation allows the department to require an additional bond for licensure if it determines that the bond required at application is not adequate. The department may require an additional bond in an amount up to the average daily outstanding balance of money received for transmission in the Commonwealth during the 30 days preceding the Department's requirement, plus an additional 10 percent of the amount of the average daily outstanding balance, after an examination and consent agreement or order by the department.

If bonds become insolvent, the legislation adds that any administrative costs or fines will be paid from the principal sum of the bond in addition to the current practice of paying for claims from the issuance of transmittal instruments.

House Bill 850 updates the powers and duties of the department regarding issues such as examinations, hearings, issuance of regulations, and suspensions and revocations of licenses. In addition, requirements for the appointment of agents are strengthened, violations of the act are increased to felony offenses, and the amount of fines are increased to be consistent with those in the more modernized licensing acts.

Licensee requirements are updated with the additions that licensees operate in a safe and sound manner and that all agents of licensees located in the Commonwealth be registered with the department.

The legislation shall take effect in 60 days.

FISCAL IMPACT:

According to the Department of Banking and Securities, there were 89 money transmission agents licensed in the Commonwealth as of June 2016. Increasing the license fee and the renewal fee from \$2,000 to \$5,000 would generate \$267,000 of additional revenue in the Banking Fund. However, there is potential that the number of licensees could be reduced due to the added exemption for agents of a government agency if such agents are disbursing government benefits, which would lower the \$267,000 revenue gain.