

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

Senate Bill 603

BY SENATOR TARR

[Introduced February 13, 2019; Referred
to the Committee on Banking and Insurance]

1 A BILL to amend and reenact §32A-2-1 and §32A-2-3 of the Code of West Virginia, 1931, as
 2 amended, all relating to engaging in the business of currency exchange, transportation,
 3 or transmission; providing that currency transmission and money transmission does not
 4 include the receipt of currency, the payment of money, or other value that substitutes for
 5 money by an agent for a person providing goods or services other than currency
 6 transmission or money transmission; and exempting other activities from licensing
 7 requirements.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 2. CHECKS AND MONEY ORDER SALES, MONEY TRANSMISSION
 SERVICES, TRANSPORTATION AND CURRENCY EXCHANGE.**

§32A-2-1. Definitions.

1 (1) "Commissioner" means the Commissioner of Financial Institutions of this state.

2 (2) "Check" or "payment instrument" means any check, traveler's check, draft, money
 3 order or other instrument for the transmission or payment of money whether or not the instrument
 4 is negotiable. The term does not include a credit card voucher, a letter of credit or any instrument
 5 that is redeemable by the issuer in goods or services.

6 (3) "Currency" means a medium of exchange authorized or adopted by a domestic or
 7 foreign government.

8 (4) "Currency exchange" means the conversion of the currency of one government into
 9 the currency of another government, but does not include the issuance and sale of travelers
 10 checks denominated in a foreign currency. Transactions involving the electronic transmission of
 11 funds by licensed money transmitters which may permit, but do not require, the recipient to obtain
 12 the funds in a foreign currency outside of West Virginia are not currency exchange transactions:
 13 *Provided*, That they are not reportable as currency exchange transactions under federal laws and
 14 regulations.

15 (5) "Currency exchange, transportation, transmission business" means a person who is
16 engaging in currency exchange, currency transportation or currency transmission as a service or
17 for profit.

18 (6) "Currency transmission" or "money transmission" means engaging in the business of
19 selling or issuing checks or the business of receiving currency, the payment of money, or other
20 value that substitutes for money by any means for the purpose of transmitting, either prior to or
21 after receipt, that currency, payment of money or other value that substitutes for money by wire,
22 facsimile or other electronic means, or through the use of a financial institution, financial
23 intermediary, the Federal Reserve system or other funds transfer network. It includes the
24 transmission of funds through the issuance and sale of stored value or similar prepaid products'
25 cards which are intended for general acceptance and used in commercial or consumer
26 transactions. "Currency transmission" and "money transmission" does not include the receipt of
27 currency, the payment of money, or other value that substitutes for money by an agent for a
28 person providing good or services other than currency transmission or money transmission.
29 Agency between the party may be created by contract or otherwise pursuant to common law.

30 (7) "Currency transportation" means knowingly engaging in the business of physically
31 transporting currency from one location to another in a manner other than by a licensed armored
32 car service exempted under §32A-2-3of this code.

33 (8) "Licensee" means a person licensed by the commissioner under this article.

34 (9) "Money order" means any instrument for the transmission or payment of money in
35 relation to which the purchaser or remitter appoints or purports to appoint the seller thereof as his
36 or her agent for the receipt, transmission or handling of money, whether the instrument is signed
37 by the seller, the purchaser or remitter or some other person.

38 (10) "Person" means any individual, partnership, association, joint stock association,
39 limited liability company, trust or corporation.

40 (11) "Principal" means a licensee's owner, president, senior officer responsible for the

41 licensee's business, chief financial officer or any other person who performs similar functions or
42 who otherwise controls the conduct of the affairs of a licensee. A person controlling ten percent
43 or more of the voting stock of any corporate applicant is a principal under this provision.

§32A-2-3. Exemptions.

1 (a) The following are exempt from the provisions of this article:

2 (1) Banks, trust companies, foreign bank agencies, credit unions, savings banks, and
3 savings and loan associations authorized to do business in the state or which qualify as federally
4 insured depository institutions, whether organized under the laws of this state, any other state, or
5 the United States;

6 (2) The United States and any department or agency of the United States;

7 (3) The United States Postal Service;

8 (4) This state and any political subdivision of this state;

9 (5) The provision of electronic transfer of government benefits for any federal, state, or
10 county governmental agency as defined in Federal Reserve Board Regulation E, by a contractor
11 for and on behalf of the United States or any department, agency or instrumentality of the United
12 States, or any state or any political subdivisions of a state;

13 (6) Persons engaged solely in the business of currency transportation who operate an
14 armored car service in this state pursuant to licensure under §30-18-1 *et seq.* of this code:
15 *Provided, That the net worth of the licensee exceeds \$5 million. The term "armored car service"*
16 *as used in this article means a service provided by a person transporting or offering to transport,*
17 *under armed security guard, currency or other things of value in a motor vehicle specially*
18 *equipped to offer a high degree of security. Persons seeking to claim this exemption shall notify*
19 *the commissioner of their intent to do so and demonstrate that they qualify for its use. Persons*
20 *seeking an exemption under this subdivision are not exempt from the provisions of this article if*
21 *they also engage in currency exchange or currency transmission;*

22 (7) Persons engaged in the business of currency transportation whose activities are limited
23 exclusively to providing services to federally insured depository institutions, or to any federal,
24 state, or local governmental entities;

25 (8) Persons engaged solely in the business of removing currency from vending machines
26 providing goods or services, if the machines are not used for gambling purposes or to convey any
27 gambling ticket, token, or other device used in a game of chance;

28 (9) The State Regulatory Registry, LLC, which administers the Nationwide Mortgage
29 Licensing System and Registry on behalf of states and federal banking regulators; ~~and~~

30 (10) The North American Securities Administrators Association and any subsidiaries,
31 which administer the Electronic Filing Depository system on behalf of state securities regulators;
32 and

33 (11) A person or persons:

34 (A) Operating a payment system that provides processing, clearing, or settlement
35 services, between or among persons who are all excluded by this section, in connection with wire
36 transfers, credit card transactions, debit card transactions, prepaid access transactions,
37 automated clearinghouse transfers, or similar funds transfers;

38 (B) Who is a contracted service provider of or program manager for an entity in subdivision
39 (1), subsection (a) of this section that provides processing, clearing, or settlement services in
40 connection with wire transfers, credit card transactions, debit card transactions, prepaid access
41 transactions, automated clearinghouse transfers, or similar funds transfers; or

42 (C) That facilitates payment for goods or services (not including currency transmission or
43 money transmission itself) or bill payment pursuant to a contract with the payee and either
44 payment to the person or persons facilitating the payment processing satisfies the payor's
45 obligation to the payee or that obligation is otherwise extinguished.

46 (b) Any person who holds and maintains a valid license under this article may engage in
47 the business of money transmission or currency exchange at one or more locations through or by

48 means of an authorized delegate or delegates as set forth in §32A-2-27 of this code, as the
49 licensee may designate and appoint from time to time. No such authorized delegate is required
50 to obtain a separate license under this article, but the use of sub-delegates is prohibited and the
51 authorized delegate may only conduct business on behalf of its licensee.

52 (c) The issuance and sale of stored value cards or similar prepaid products which are
53 intended to purchase items only from the issuer or seller of the stored value card is exempt from
54 the provisions of this article.

55 (d) Any person who is required and properly obtains a license under this article to transport
56 currency is exempt from the requirements of §30-18-1 *et seq.* of this code.

NOTE: The purpose of this bill is to exempt certain activities from the licensing requirements for engaging in the business of currency exchange, transportation or transmission. It provides that currency transmission and money transmission does not include the receipt of currency, the payment of money, or other value that substitutes for money by an agent for a person providing good or services other than currency transmission or money transmission. The bill also exempts other activities from licensing requirements.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.