

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

HOUSE BILL 2483

By: Nance

AS INTRODUCED

An Act relating to banking; creating the Oklahoma Financial Transaction Reporting Act; defining terms; providing filing and reporting requirements for certain entities; directing certain entities to follow certain procedures and make certain records available; requiring entities to maintain records for certain period of time; providing for availability of records; providing procedures and guidelines to ensure compliance with certain requirements; providing reporting requirements; making certain acts unlawful; providing penalties; exempting records from disclosure requirements; providing for investigations of entities that fail to file certain reports; providing for uniformity of construction; authorizing Attorney General to enter into certain agreements; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1511 of Title 6, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 5 of this act shall be known and may be cited as the "Oklahoma Financial Transaction Reporting Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1512 of Title 6, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Authorized delegate" means a person designated by the licensee;
2. "Check cashing" means exchanging for compensation a check, draft, money order, traveler's check, or a payment instrument of a

money transmitter for money delivered to the presenter at the time and place of the presentation;

3. "Compensation" means any fee, commission, or other benefit;

4. "Conduct the business" means engaging in activities of a licensee or money transmitter more than ten times in any calendar year for compensation;

5. "Financial institution" means any office or branch of a bank, savings bank, saving association, building and loan association, savings and loan association, credit union association and credit union located in the State of Oklahoma;

6. "Foreign money exchange" means exchanging for compensation money of the United States government or a foreign government to or from money of another government at a conspicuously posted exchange rate at the time and place of the presentation of the money to be exchanged;

7. "Licensee" means a person licensed under this act;

8. "Location" means a place of business at which activity conducted by a licensee or money transmitter occurs;

9. "Money" means a medium of exchange authorized or adopted by a domestic or foreign government as a part of its currency and that is customarily used and accepted as a medium of exchange in the country of issuance;

10. "Money transmitter" means a person who is located or doing business in this state, including a check casher and a foreign money exchanger, and who does any of the following:

- a. sells or issues payment instruments,
- b. conducts the business of receiving money for the transmission of or transmitting money,
- c. conducts the business of exchanging payment instruments or money into any form of money or payment instrument,

d. conducts the business of receiving money for obligors for the purpose of paying bills of obligors, invoices, or accounts;

11. "Money services business" includes:

a. currency dealers or exchangers who exchange more than One Thousand Dollars (\$1,000.00) for any one customer on any day,

b. check cashiers who cash checks totally more than One Thousand Dollars (\$1,000.00) for any one customer on any day,

c. issuers of traveler's checks, money orders, or stored value who issue more than One Thousand Dollars (\$1,000.00) in traveler's checks, money orders, or stored value for any one customer on any day,

d. sellers of traveler's checks, money orders, or stored value who issue more than One Thousand Dollars (\$1,000.00) in traveler's checks, money orders or stored value for any one customer on any day, and

e. redeemers of traveler's checks, money orders, or stored value who issue more than One Thousand Dollars (\$1,000.00) in traveler's checks, money orders or stored value for any one customer on any day;

12. "Payment instrument" means a check, draft, money order, traveler's check or other instrument or order for the transmission or payment of money, sold to one or more persons, whether or not that instrument or order is negotiable;

13. "Payment instrument" does not include an instrument that is redeemable by the issuer or in merchandise or service, a credit card voucher, or a letter of credit;

14. ""Proceeds" means property acquired or derived directly or indirectly from, produced through, realized through, or caused by an act or omission and includes any property of any kind;

15. "Property" means anything of value, and includes any interest in property, including any benefit, privilege, claim, or right with respect to anything of value, whether real or personal, tangible or intangible, without reduction for expenses incurred for acquisition, maintenance, production, or any other purpose;

16. "Superintendent" means the superintendent of banking or the superintendent of credit unions;

17. "Transaction" includes a purchase, sale, trade, loan, pledge, investment, gift, transfer, transmission, delivery, deposit, withdrawal, payment, transfer between accounts, exchange of currency, extension of credit, purchase or sale of any monetary instrument, use of a safe deposit box, or any other acquisition or disposition of property by whatever means effected;

18. "Transmitting money" includes the transmission of money by any means including transmission within this country or to or from locations abroad by payment instrument, wire, facsimile, or electronic transfer, courier, or otherwise; and

19. "Traveler's check" means an instrument identified as a traveler's check on its face or commonly recognized as a traveler's check and issued in a money multiple of United States or foreign currency with a provision for a specimen signature of the purchaser to be completed at the time of purchase and a countersignature of the purchaser to be completed at the time of negotiation.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1513 of Title 6, unless there is created a duplication in numbering, reads as follows:

A. A licensee money services business, authorized delegate, particularly money transmitter, required to file a report regarding business conducted in this state pursuant to the federal Currency and Foreign Transactions Reporting Act, 31 U.S.C., Sections 5311 through 5326 and 31 C.F.R., Part 103 or 12 C.F.R., Section 21.11,

shall file a duplicate of that report with the Oklahoma State Bureau of Investigation.

B. All persons engaged in a trade or business who are required to file a report pursuant to 26 U.S.C., Section 60501 and 26 C.F.R., Section 1.60501, and any successor provisions, concerning returns relating to cash received in trade or business, shall file a copy of the report with the Oklahoma State Bureau of Investigation.

C. A licensee money services business, authorized delegate or money transmitter that is regulated under the federal Currency and Foreign Transactions Reporting Act, 31 U.S.C., Section 5325 and 31 C.F.R., Part 103, and that is required to make available prescribed records to the secretary of the United States Department of Treasury upon request at any time, shall follow the same prescribed procedures and create and maintain the same prescribed records relating to a transaction and shall make these records available to Oklahoma law enforcement pursuant to a prosecuting attorney subpoena.

D. A money services business shall register with the Oklahoma Banking Commission before engaging in business. A money services business, money transmitter or check cashing business, shall maintain the records associated with the business for a period of three (3) years. The Oklahoma State Bureau of Narcotics and Dangerous Drugs may check an individual money services business, money transmitter or check cashing business to assure compliance and accuracy.

E. 1. The timely filing of a report required by this section with the appropriate federal agency shall be deemed compliant with the reporting requirements of this section, unless the Attorney General or a law enforcement authority has notified the Banking Commission that reports of that type are not being regularly and comprehensively transmitted by that federal agency to the appropriate state agency.

2. This act shall not preclude a licensee money services business, authorized delegate, financial institution, or a person engaged in a trade or business, in its discretion, from instituting contact with and thereafter communicating with and disclosing customer financial records to appropriate state or local law enforcement agencies if the licensee money services business, authorized delegate, financial institution, or person has information that may be relevant to a possible violation of any criminal statute or to the evasion or attempted evasion of any reporting requirement of this act.

3. A licensee money services business, authorized delegate, money transmitter, financial institution, person engaged in a trade or business, or any officer, employee, agent, or authorized delegate of any of them, or any public official or governmental employee who keeps or files a record pursuant to this section or who communicates or discloses information or records under paragraph 2 of this subsection, is not liable to its customer, to a state or local agency, or to any person for any loss or damage caused in whole or in part by the making, filing, or governmental use of the report, or any information contained in that report.

F. The Attorney General, Oklahoma State Bureau of Narcotics and Dangerous Drugs or Oklahoma State Bureau of Investigation may report any possible violations indicated by analysis of the reports required by this act to any appropriate law enforcement agency for use in the proper discharge of its official duties. The Oklahoma State Bureau of Investigation shall provide copies of the report required by this act to any appropriate prosecutorial or law enforcement agency upon being provided with a written request for records relating to a specific individual or entity. A person who releases information received pursuant to this subsection, except in the proper discharge of the official duties of the person, shall, upon conviction, be guilty of a misdemeanor.

G. It shall be unlawful for any person to do the following:

1. With intent to disguise the fact that money or a payment instrument is the proceeds of criminal conduct, or with intent to promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying of any criminal conduct, to knowingly furnish or provide to a licensee money services business, authorized delegate, money transmitter, financial institution, person engaged in a trade or business, or any officer, employee, agent, or authorized delegate of any of them, or to the Attorney General, Oklahoma State Bureau of Investigation any false, inaccurate, or incomplete information or to knowingly conceal a material fact in connection with a transaction for which a report is required to be filed pursuant to this section; or

2. With the intent to disguise the fact that money or a payment instrument is the proceeds of criminal conduct, or with intent to promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on of any criminal conduct, or with intent to evade the making or filing of a report required under this act, or with intent to cause the making or filing of a report that contains a material omission or misstatement of fact, to conduct or structure a transaction or series of transactions by or through one or more licenses, authorized delegates, money transmitters, financial institutions, or person engaged in a trade or business.

H. Any person found guilty of violating the provisions of subsection G of this section shall, upon conviction, be subject to civil penalty of three times the value of the property involved in the transaction, or if no transaction is involved, a fine of Five Thousand Dollars (\$5,000.00).

I. Notwithstanding any other provision of law, each violation of this section constitutes a separate, punishable offense.

J. Any report, record, information, analysis or request obtained by the Attorney General, Oklahoma State Bureau of Investigation, or Oklahoma State Bureau of Narcotics and Dangerous Drugs pursuant to this act is not a public record and is not subject to disclosure.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1514 of Title 6, unless there is created a duplication in numbering, reads as follows:

A. The Attorney General, Oklahoma State Bureau of Narcotics and Dangerous Drugs, or Oklahoma State Bureau of Investigation may conduct investigations within or outside this state to determine if any licensee money services business, authorized delegate, money transmitter, or person engaged in a trade or business has failed to file a report required by this act or has engaged or is engaging in any act, practice, or transaction that constitutes a violation of this act.

B. Upon presentation of a subpoena from a prosecuting attorney, all licensee money services businesses, authorized delegates, money transmitters, and financial institutions shall make their books and records available to the Attorney General, Oklahoma State Bureau of Narcotics and Dangerous Drugs, Oklahoma State Bureau of Investigation, district attorney, or peace officer during normal business hours for inspection and examination in connection with an investigation pursuant to this section.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1515 of Title 6, unless there is created a duplication in numbering, reads as follows:

A. The provisions of this chapter shall be liberally construed to effectuate its remedial purposes. Civil remedies under this chapter shall be supplemental and not mutually exclusive. The civil remedies under this chapter do not preclude and are not precluded by other provision of law.

B. The provisions of this chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this act among states enacting the law and to make the reporting requirements regarding financial transactions under Oklahoma law uniform with the reporting requirements regarding financial transactions under federal law.

C. The Attorney General is authorized to enter into reciprocal agreements with the chief prosecuting attorney of any state to effectuate the purposes of this act.

SECTION 6. This act shall become effective November 1, 2006.

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