SFA BILL ANALYSIS

Senate Fiscal Agency • Lansing, Michigan 48909 • (517) 373-5383

House Bill 5070 (as reported without amendment)
Sponsor: Representative Kirk A. Profit
House Committee: Corporations and Finance
Senate Committee: Commerce and Technology

Date Completed: 4-27-90

RATIONALE

Under the Sale of Checks Act, a person cannot engage in the business of selling or issuing checks as a service or for a fee without being licensed by the Commissioner of the Financial Institutions Bureau (unless the person is licensed under the Consumer Financial Services Act, which regulates financial service firms). The Sale of Checks Act defines "check" as any check, draft, money order, or other instrument for the transmission or payment of money. The Act exempts incorporated telegraph companies which, though they transfer money electronically, have traditionally been regulated by the Federal Communications Commission (FCC) and the Michigan Public Service Commission (MPSC). Over the last decade, however, the FCC and MPSC have deregulated telegraph companies in an attempt to promote competition among companies. Under deregulation, a number of new companies have entered the industry, many of which make financial transactions electronically. Some people feel some of these companies may not be experienced enough to handle such transactions properly, and fear that allowing such transactions to occur without sufficient oversight could pose problems for consumers. In addition, because funds are being transmitted electronically (and, some say, such transfers are comparable to transactions made at automated teller machines), some people feel that these transactions should be fully regulated under the Act.

CONTENT

The bill would amend the Sale of Checks Act to delete the provision that exempts from the Act incorporated telegraph companies that receive money for immediate transmission by telegraph.

MCL 487.904

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

ARGUMENTS

Supporting Argument

The bill would include telegraph companies that sell money orders and traveler's checks electronically (or otherwise) under the Sale of Checks Act, and make these companies subject to the Act's licensure, bonding, and reporting requirements. Transactions of this nature are similar to those made by banks and other financial institutions, and should be fully regulated by the Act. Telegraph companies were originally excluded from the Act in 1960 because the FCC and MPSC regulated their activities. In the wake of deregulation since that time, more telegraph companies are offering to sell money orders and traveler's checks. According to a spokesperson from the Financial Institutions Bureau, a recent embezzlement case involving such a company in the state of New York resulted in a $2 million loss to customers. On the heels of that case, New York included these companies under its own check-sales law. Some also have speculated that, left unregulated, telegraph companies could be used for money-laundering operations. Michigan would be wise to follow the lead of New York.

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