

2015 Regular Session

HOUSE BILL NO. 809

BY REPRESENTATIVE BILLIOT

TAX/STATE: Provides with respect to a tax on certain money transmission activities and a tax credit for payment of the tax

1 AN ACT

2 To enact R.S. 6:1044(C), Subpart S of Part II-A of Chapter 1 of Subtitle I of Title 39 of the

3 Louisiana Revised Statutes of 1950, comprised of R.S. 39:100.146, Part IV of

4 Chapter 3 of Subtitle IV of Title 47 of the Louisiana Revised Statutes of 1950,

5 comprised of R.S. 47:2711, and R.S. 47:6039, relative to state taxation; to impose

6 a tax on money transmission; to provide for the amount of the tax; to provide with

7 respect to the collection and remittance of the avails of the tax; to provide with

8 respect to licenses issued by the Office of Financial Institutions; to provide for the

9 use of the avails of the tax; to establish a special treasury fund; to provide for the

10 deposit, use, and investment of monies in the fund; to establish a tax credit for

11 taxpayers who have paid the money transmission tax; to provide for the amount of

12 the credit; to provide for eligibility; to provide for certain limitations; to authorize

13 rulemaking; to provide for effectiveness; and to provide for related matters.

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. R.S. 6:1044(C) is hereby enacted to read as follows:

16 §1044. Visitation and examination; revocation of license

17 * * *

18 C. The commissioner may suspend or revoke a license upon notice from the

19 secretary of the Department of Revenue that a licensee or agent under this Chapter

20 has failed to file reports or remit tax levied upon transmission of money as required

1 by R.S. 47:2711. The commissioner shall not reinstate or grant a new license to any
2 person whose license has been revoked or suspended pursuant to this Section,
3 without notice from the secretary of the Department of Revenue that the person has
4 filed the required reports or remitted the taxes that caused the suspension or
5 revocation of his license.

6 Section 2. Subpart S of Part II-A of Chapter 1 of Subtitle I of Title 39 of the
7 Louisiana Revised Statutes of 1950, to be comprised of R.S. 39:100.146, is hereby enacted
8 to read as follows:

9 SUBPART S. QUALITY OF LIFE FUND

10 §100.146. Quality of Life Fund; money transmission tax; disposition of proceeds

11 A. There is hereby established the Quality of Life Fund as a special fund
12 within the state treasury. Each fiscal year an amount equal to the avails of the
13 Money Transmission Tax that are collected pursuant to R.S. 47:2711 shall be
14 deposited into the fund. Monies in the fund shall be invested in the same manner as
15 the state general fund. Unexpended and unencumbered monies in the fund at the end
16 of the fiscal year shall remain in the fund.

17 B. Monies in the fund shall be allocated and appropriated each year solely
18 as follows:

19 (1)(a) Ten million dollars to the Greater New Orleans Community Health
20 Connection program administered by the Department of Health and Hospitals.

21 (b) Ten million dollars to the Office of Public Health, Department of Health
22 and Hospitals, for payments to Federally Qualified Health Centers.

23 (c) Three million dollars to the Office of State Parks, Department of Culture,
24 Recreation, and Tourism for repairs and improvements to existing facilities on
25 existing park areas.

26 (2) If, in any fiscal year, monies available for appropriation from the fund
27 are insufficient to provide for the allocations established in Paragraph (1) of this
28 Subsection, there shall be a pro rata reduction to each of the three recipient entities.

1 Section 2. Part IV of Chapter 3 of Subtitle IV of Title 47 of the Louisiana Revised
2 Statutes of 1950, to be comprised of R.S. 47:2711, and R.S. 47:6039 are hereby enacted to
3 read as follows:

4 PART IV. MONEY TRANSMISSION TAX

5 §2711. Money transmission tax

6 A. There is hereby levied a tax upon the transmission of money originating
7 in Louisiana through any person licensed by the Office of Financial Institutions to
8 engage in the business of money transmission, hereinafter referred to as
9 "transmitter". For purposes of this Section, the term "money transmission" shall
10 have the meaning prescribed in R.S. 6:1032(13), except as provided in Subsection
11 B of this Section. The tax shall be collected at the time of payment for the
12 transaction, and shall be remitted to the state as provided in Subsection C of this
13 Section. The amount of tax due to the state shall be five dollars for each transaction
14 of five hundred dollars or less, plus an amount equal to one percent of any amount
15 in excess of five hundred dollars.

16 B. The provisions of this Section shall not apply to the transmission of money
17 for any of the following purposes:

18 (1) A transaction through a bill payment service in which money is
19 transferred for a good or service not otherwise prohibited by state or federal law for
20 a traceable debt, the transaction occurring between an individual and a business that
21 is registered with the Louisiana Secretary of State or that of another state.

22 (2) A transfer of money by internet or telephone through use of a debit card,
23 credit card, or ACH transfer.

24 (3) The sale and servicing of prepaid debit cards and stored value cards.

25 (4) The sale of a money order.

26 (5) A transaction for the cashing of a check.

27 C. The tax levied pursuant to this Section shall be remitted quarterly to the
28 Department of Revenue on forms prescribed by the secretary of the department. All
29 required forms and remittances shall be filed with the Department of Revenue no

1 later than the fifteenth day of the month following the close of each calendar quarter.

2 The secretary, for good cause, may extend the time for filing the required forms and

3 remittances; however, the extension shall not extend beyond thirty days from the

4 fifteenth day of the month in which the filing was originally due.

5 D. Every transmitter shall post a notice on a form prescribed by the

6 Department of Revenue that notifies customers that upon filing an individual income

7 tax return with either a valid social security number or a valid taxpayer identification

8 number that the customer shall be entitled to an income tax credit equal to the

9 amount of the money transmission tax paid by the customer for the transaction.

10 E. The secretary of the Department of Revenue shall be afforded all remedies

11 under law to enforce the provisions of Subsection C of this Section, including the

12 following:

13 (1) Providing notice to the commissioner of the Office of Financial

14 Institutions for the purposes of R.S. 6:1044(C).

15 (2) Requesting the commissioner of the Office of Financial Institutions to

16 make a claim against the surety bond of the transmitter on behalf of the state.

17 * * *

18 §6039. Tax credit; money transfer tax

19 A. There shall be a credit against Louisiana individual income tax for

20 taxpayers who have paid the money transmission tax, hereinafter referred to as "tax".

21 The tax credit shall be equal to the amount of tax paid during the taxable year for

22 which the credit is claimed. A credit may only be claimed for the taxable year in

23 which the tax was paid.

24 B. The secretary of the Department of Revenue shall provide by rule

25 promulgated in accordance with the Administrative Procedure Act for any policies

26 and procedures necessary for administration of the tax credit established in this

27 Section.

1 Section 3. This Act shall become effective on July 1, 2015; if vetoed by the governor
2 and subsequently approved by the legislature, this Act shall become effective on July 1,
3 2015, or on the day following such approval by the legislature, whichever is later.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 809 Original

2015 Regular Session

Billiot

Abstract: Levies a tax on the transmission of money and dedicates the tax proceeds to the Quality of Life Fund. Establishes an individual income tax credit equal to the amount of tax paid.

Present law provides for the licensing of persons engaged in the business of money transmission by the Office of Financial Institutions. Present law defines "money transmission" generally as engaging in the business of the sale or issuance of payment instruments or of receiving money or monetary value for transmission to a location within or outside the United States, by any and all means including wire, facsimile, or electronic transfer.

Present law requires the commissioner to visit and examine each licensee or agent authorized to engage in the business of money transmission on a recurring schedule or whenever is necessary. Requires the commissioner to revoke or suspend a license on any grounds for which he may refuse to grant a license or for a violation of present law.

Proposed law retains present law.

Proposed law authorizes the commissioner to suspend or revoke a license upon notice of the secretary of the Dept. of Revenue (department) that the licensee has failed to file reports or remit tax levied and due on the transmission of money as required by proposed law. Further prohibits the commissioner from reinstating a license or granting a new license without notice from the secretary that the person has complied with proposed law.

Proposed law levies a tax upon the transmission of money through any person licensed by the Office of Financial Institutions to engage in the business of money transmission ("transmitter"). The tax is payable by the customer who engages a transmitter for the transmission of money, and shall be collected at the time of payment for the transaction.

Proposed law excludes the following types of transactions from applicability of proposed law:

- (1) A transaction through a bill payment service.
- (2) A transfer of money by internet or telephone through use of a debit card, credit card, or ACH transfer.
- (3) The sale and servicing of prepaid debit cards and stored value cards.
- (4) The sale of a money order.
- (5) A transaction for the cashing of a check.

Proposed law provides that the amount of tax shall be \$5 for each transaction of \$500 or less, plus an amount equal to 1% of any amount in excess of \$500. The transmitter is required to remit the taxes collected to the department quarterly on forms prescribed by the secretary.

Proposed law requires a transmitter to post a notice on a form prescribed by the department notifying its customers of an individual income tax credit established by proposed law in an amount equal to the amount of the money transmission tax paid by the customer for the transaction.

Proposed law provides that if a transmitter fails to file reports or remit the tax imposed by proposed law, the commissioner of the Office of Financial Institutions may suspend the license of the transmitter. If suspended, the licensee may not reapply for a license until all required reports have been filed and required taxes have been remitted.

Proposed law establishes an individual income tax credit for taxpayers who have paid the money transmission tax established pursuant to proposed law. The amount of the tax credit is equal to the amount of tax paid during the taxable year for which the credit is claimed. A credit may only be claimed for the taxable year in which the tax was paid.

Proposed law establishes the Quality of Life Fund as a special fund within the state treasury into which the avails of the money transmission tax shall be deposited. Monies in the fund shall be invested in the same manner as the state general fund. Unexpended and unencumbered monies in the fund at the end of the fiscal year shall remain in the fund.

Proposed law requires that monies in the fund be allocated and appropriated each year solely as follows:

- (1) \$10 million to the Greater New Orleans Community Health Connection program administered by the Dept. of Health and Hospitals (DHH).
- (2) \$ 10 million to the Office of Public Health, DHH, for payments to Federally Qualified Health Centers.
- (3) \$3 million to the Office of State Parks, Dept. of Culture, Recreation, and Tourism for repairs and improvements to existing facilities on existing park areas.

Effective July 1, 2015.

(Adds R.S. 6:1044(C), R.S. 39:100.146, and R.S. 47:2711 and 6039)