

Date of Hearing: April 15, 2021

ASSEMBLY COMMITTEE ON BANKING AND FINANCE

Timothy Grayson, Chair

AB 1320 (Bauer-Kahan) – As Amended March 11, 2021

SUBJECT: Money transmission: customer service

SUMMARY: Requires a Money Transmission Act (MTA) licensee to prominently display a customer service phone number.

Specifically, **this bill:**

- 1) Requires a MTA licensee to prominently display on its internet website, or in any written communication from the licensee to a customer related to money received for transmission, a telephone number through which a customer may contact a licensee for customer service.

EXISTING LAW:

- 1) Establishes the Money Transmission Act (Financial Code Section 2000 et seq.), which prohibits a person from engaging in the business of money transmission in this state, or advertising, soliciting, or holding itself out as providing money transmission in this state, unless the person is licensed or exempt. It also establishes the following consumer protection provisions:
 - a) Each licensee or its agent shall refund the customer within 10 days of receipt of the customer's written request for a refund, unless certain specified conditions occur.
 - b) Each licensee or its agent shall give the customer a receipt at the time of the transaction with specified information.
 - c) Each licensee or agent shall prominently post on the premises of each branch office that conducts money transmission a specified notice on directing complaints to DFPI.

FISCAL EFFECT: Unknown. This bill is keyed fiscal by Legislative Counsel.

COMMENTS:

1) **PURPOSE**

According to the author:

The rise of new digital financial products offers market flexibility and needed resources for users. However, new technology means new vulnerabilities. Regulations must keep pace to ensure consumers are protected from losing assets to glitches and scams. AB 1320 is simple, common sense legislation that protects consumers and further secures our financial system.

2) **BACKGROUND.**

Current state law requires any entity issuing or selling payment instruments (such as a check or money order), stored value, or money to become a licensed money transmitter. Through its Money Transmitter Division, DFPI licenses and regulates approximately 110 entities, and these licensees range from brick and mortar businesses offering money transfer services, such as Intermex Wire Transfer, to online or mobile payment companies, such as Square, Inc or Apple Cash. As part of the licensure process, a money transmitter must submit an audited financial statement, an Anti-Money Laundering or Bank Secrecy Act policy that details, sample documents such as receipts for transactions, organizational charts and a business plan, and a surety bond between \$250,000 and \$7 million.

Money transmitters must also comply with a number of disclosure and transparency requirements. For example, a licensee must include a receipt with specified information informing the customer of their right to a refund and how to contact DFPI to make a complaint.

3) CHANGING LANDSCAPE FOR MONEY TRANSMITTERS.

Historically, a typical “money transmitter” was simply a money-wiring service with physical retail locations like Western Union. However, as technology has evolved and smartphones have become more commonplace, money transmitters increasingly include non-bank mobile payment applications (apps) such as PayPal’s Venmo and Square’s Cash App. These mobile apps have grown in popularity, and as of 2019 more than half of US residents had made a mobile payment of some type in the previous year.

Some mobile payment apps now provide customers a range of services that go beyond traditional money transmission. For example, Cash App allows customers to set up direct deposits, use a debit card, make peer-to-peer cash transfers, and purchase stock. Discussing the increased use of these applications, a September 2020 Pew Charitable Trusts report concluded that mobile payments “have evolved from a novel, sometimes risky tool, into an extension of the mainstream financial system...”¹

Mobile payment apps have historically operated in a gray area of federal law, though recent federal action has addressed some of the concerns for consumers. The CFPB’s “Prepaid Rule,” which went into effect in 2019, extended safeguards and consumer protections that protect debit card users from a loss of funds to other types of nonbank products, including mobile wallets and apps that allow money transfers. Under the Prepaid Rule and Regulation E, a mobile payment app must comply with certain disclosure requirements, record retentions, and limitations on consumer liability for unauthorized transactions.

Even with CFBP increasingly looking at money transmitters and, more specifically, mobile payment apps with a critical eye, state law still has a large role to play in regulating nonbank entities. In response to the increased use of mobile payment apps and online money transmission websites, the Legislature passed AB 2209 (Dickenson), Chapter 499, Statutes of

¹ “Can Regulators Foster Financial Innovation and Preserve Consumer Protections? An Investigation of Mobile and Faster Payments, Regulatory Sandboxes, and the Challenges of Maintaining Customer Safety.” Pew Charitable Trusts (September 2020), available at <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2020/09/can-regulators-foster-financial-innovation-and-preserve-consumer-protections>

2014, to update the MTA to provide additional clarity for the industry and to establish additional disclosure requirements and other consumer protections for customers.

4) CONSUMER PROTECTION ISSUES PERSIST

Consumers still face risks when using money transmitters and mobile payment apps. Between April 2018 and April 2021, California consumers filed 850 complaints related to money transfers and 794 complaints for mobile or digital wallet services.² The most common issue reported to CFPB was fraud or scam, but consumers also reported unauthorized transactions, difficulty with opening or closing a mobile wallet account, and problems with customer service. Not all of these complaints may apply to money transmitters, as defined in California law, but these complaints indicate ongoing consumer issues when it comes to using mobile payments and money transfer services.

More recently, news stories have highlighted the difficulty mobile payment app users face when trying to resolve service issues with the company. A recent Yahoo! Finance story details how some mobile payment apps remain vulnerable to crashes, hacking and security breaches but do not provide users with adequate customer support to resolve problems with their accounts.³ For example, the Cash App does not provide live customer service, so consumers have difficulty figuring out what to do when their account is breached and their funds disappear.

5) WHAT THIS BILL DOES

This bill is a modest measure that requires a money transmitter to provide a customer better access to a customer service phone number. When a mobile payment app crashes or when a user's account is breached, this bill would ensure that the affected customer has an easy-to-identify number to call.

Notably, this bill does not require the licensee to have a live person available to answer that phone call. Nor does this bill require swift resolution or response. Therefore, this bill can be viewed as requiring a licensed money transmitter to provide a bare minimum level of service to its customers, which should limit any impact on affected companies.

REGISTERED SUPPORT / OPPOSITION:

Support

Consumer Attorneys of California
Consumer Reports Advocacy

Opposition

² CFPB's Consumer Complaint Database (accessed April 6, 2021), available at <https://www.consumerfinance.gov/data-research/consumer-complaints/>

³ Alexis Keenan, "Square's Cash App vulnerable to hackers, customers claim: 'They're completely ghosting you'," Yahoo! Finance (March 20, 2021), available at <https://finance.yahoo.com/news/squares-cash-app-vulnerable-to-hackers-customers-claim-113556593.html>

None

Analysis Prepared by: Luke Reidenbach / B. & F. / (916) 319-3081