

Amendment No. 1 to HB2069

Vaughan
Signature of Sponsor

AMEND Senate Bill No. 2088

House Bill No. 2069*

by deleting all language after the enacting clause and substituting:

SECTION 1. Tennessee Code Annotated, Title 8, Chapter 5, is amended by adding the following a new part:

8-5-301. Short title.

This part is known and may be cited as the "Tennessee Bullion Depository Act."

8-5-302. Part definitions.

As used in this part:

(1) "Bullion" means precious metals that are formed into uniform shapes and quantities such as ingots, bars, or plates, with uniform content and purity, as are suitable for or customarily used in the purchase, sale, storage, transfer, and delivery of bulk or wholesale transactions in precious metals;

(2) "Deposit" means the establishment of an executory obligation of the depository to deliver to the order of the person establishing with the depository the obligation, on demand, a quantity of a specified precious metal, in bullion, specie, or a combination of bullion and specie, equal to the quantity of the same precious metal delivered by or on behalf of the depositor into the custody of:

(A) The depository; or

(B) A depository agent;

(3) "Depositor" means a person who makes a deposit;

(4) "Depository" means the Tennessee bullion depository created by this

part;

(5) "Depository account" means the rights, interests, and entitlements established in favor of a depositor with respect to a deposit in accordance with this part and rules promulgated under this part;

(6) "Depository account holder," regarding a depository account, means the original depositor or a successor or assignee of the depositor respecting the depository account;

(7) "Depository agent" means a depository institution that has entered into an agreement with the depository to provide a retail location for the provision of depository services to the general public on behalf of the depositor;

(8) "Depository institution" has the same meaning as defined in § 45-1-103;

(9) "Person" means this state, a state agency, a political subdivision, an instrumentality of this state, an individual, an entity, a corporation, a limited liability corporation, a nonprofit corporation, a trust, or an association;

(10) "Precious metal" means a metal, including gold, silver, platinum, palladium, and rhodium, that:

(A) Bears a high value-to-weight ratio relative to common industrial metals; and

(B) Is customarily formed into bullion or specie; and

(11) "Specie" means a precious metal stamped into coins of uniform shape, size, design, content, and purity, suitable for or customarily used as currency, as a medium of exchange, or as the medium for purchase, sale, storage, transfer, or delivery of precious metals in retail or wholesale transactions.

8-5-303. Tennessee bullion depository established.

(a) The Tennessee bullion depository is established as an agency of this state in the office of the state treasurer.

(b) The depository is established to serve as the custodian, guardian, and administrator of certain bullion and specie that may be transferred to this state or otherwise acquired by this state or an agency, a political subdivision, or another instrumentality of this state. At all times, the assets held by the depository are under the custody and control of the state treasurer.

8-5-304. Depository staff - Contracts - State funds.

(a) The state treasurer is authorized to retain staff and to enter into contracts to effectuate this part, including contracts with individuals, partnerships, and corporations public or private, for the effective administration, operation, management, security, and oversight of the depository. Whenever possible, all procurement specifications and scopes of work for goods and services must be worded or designed to permit open and competitive soliciting.

(b) All contracts pertaining to acquisition, leases, construction, demolition, or other improvement in real property in which this state has an interest are subject to approval and supervision by the state building commission, in addition to other approvals required by law.

(c) State funds shall not be obligated or expended on the construction, maintenance, or improvement of the depository.

8-5-305. Performance bond or letter of credit required.

The state treasurer shall require a contracted operator of the depository to post a performance bond or letter of credit from a bank or credit provider sufficient in the discretion of the state treasurer to guarantee the performance of the contract. If the contracted operator defaults, then the state treasurer must use the proceeds of the performance bond or letter of credit to:

(1) Continue the operations of the depository under the sole direction of the state treasurer;

(2) Continue the operations of the depository until the state treasurer contracts with another third-party operator; or

(3) Wind-down, return available deposits from depository accounts to the respective depository account holder, and dissolve the depository.

8-5-306. Annual report.

(a) Following the close of each state fiscal year, the state treasurer shall:

(1) Submit an annual report of its activities for the preceding year to the governor, the speaker of the senate, the speaker of the house of representatives, and the legislative librarian; and

(2) Make the report available to the general assembly.

(b) The annual reports and all books of accounts and financial records of the depository are subject to annual audit by the comptroller of the treasury. The cost of the annual audit must be paid for by the depository agent.

8-5-307. Rules.

The state treasurer may promulgate rules to effectuate this part. The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 2. The headings in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 3. This act takes effect thirty (30) days after the effective date of an act of the general assembly that exempts bullion made of precious metals from the application of sales tax, the public welfare requiring it. The department of revenue shall give written notice of the effectiveness of such act to the executive secretary of the Tennessee code commission within ten (10) days following the effective date of the act.