

Bill No. SPB 7060



715572

CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: FAV	.	
2/19/2008	.	
	.	
	.	

1 The Committee on Banking and Insurance (Storms) recommended the
 2 following **amendment**:

3
 4 **Senate Amendment (with directory and title amendments)**

5 Delete line(s) 2231-2352

6 and insert:

7 Section 38. Section 560.304, Florida Statutes, is amended
 8 to read:

9 560.304 Exemption from licensure ~~Exceptions to~~
 10 ~~registration.~~--The requirement for licensure under provisions of
 11 this part does not apply to a person, at a location, cashing
 12 payment instruments that have an aggregate face value of less
 13 than \$2,000 per person per day.

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14 ~~(1) Authorized vendors of any person registered pursuant~~
15 ~~to the provisions of the code, acting within the scope of~~
16 ~~authority conferred by the registrant.~~

17 ~~(2) Persons engaged in the cashing of payment instruments~~
18 ~~or the exchanging of foreign currency which is incidental to the~~
19 ~~retail sale of goods or services whose compensation for cashing~~
20 ~~payment instruments or exchanging foreign currency at each site~~
21 ~~does not exceed 5 percent of the total gross income from the~~
22 ~~retail sale of goods or services by such person during its most~~
23 ~~recently completed fiscal year.~~

24 Section 39. Section 560.309, Florida Statutes, is amended
25 to read:

26 560.309 Conduct of business Rules.--

27 (1) A licensee may transact business under this part only
28 under the legal name under which the person is licensed. The use
29 of a fictitious name is allowed if the fictitious name has been
30 registered with the Department of State and disclosed to the
31 office as part of an initial license application, or subsequent
32 amendment to the application, prior to its use. Before a
33 ~~registrant shall deposit, with any financial institution, a~~
34 ~~payment instrument that is cashed by a registrant, each such~~
35 ~~item must be endorsed with the actual name under which such~~
36 ~~registrant is doing business.~~

37 (2) At the time a licensee accepts a payment instrument
38 that is cashed by the licensee, the payment instrument must be
39 endorsed using the legal name under which the licensee is
40 licensed. Registrants must comply with all the laws of this

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41 ~~state and any federal laws relating to money laundering,~~
42 ~~including, as applicable, the provisions of s. 560.123.~~

43 (3) A licensee under this part must deposit or sell
44 payment instruments within 5 business days after the acceptance
45 of the payment instrument.

46 (4) A licensee may not accept or cash multiple payment
47 instruments from a person who is not the original payee, unless
48 the person is licensed to cash payment instruments pursuant to
49 this part and all payment instruments accepted are endorsed with
50 the legal name of the person.

51 (5) A licensee must report all suspicious activity to the
52 office in accordance with the criteria set forth in 31 C.F.R. s.
53 103.20. In lieu of filing such reports, the commission may
54 prescribe by rule that the licensee may file such reports with
55 an appropriate regulator.

56 (6)(3) The commission may by rule require a every check
57 cashier to display its license registration and post a notice
58 listing containing its charges for cashing payment instruments.

59 (7)(4) Exclusive of the direct costs of verification which
60 shall be established by commission rule, a no check cashier may
61 not shall:

62 (a) Charge fees, except as otherwise provided by this
63 part, in excess of 5 percent of the face amount of the payment
64 instrument, ~~or 6 percent without the provision of~~
65 ~~identification,~~ or \$5, whichever is greater;

66 (b) Charge fees in excess of 3 percent of the face amount
67 of the payment instrument, ~~or 4 percent without the provision of~~
68 ~~identification,~~ or \$5, whichever is greater, if such payment

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69 instrument is the payment of any kind of state public assistance
70 or federal social security benefit payable to the bearer of the
71 ~~such~~ payment instrument; or

72 (c) Charge fees for personal checks or money orders in
73 excess of 10 percent of the face amount of those payment
74 instruments, or \$5, whichever is greater.

75 ~~(d) As used in this subsection, "identification" means,~~
76 ~~and is limited to, an unexpired and otherwise valid driver~~
77 ~~license, a state identification card issued by any state of the~~
78 ~~United States or its territories or the District of Columbia,~~
79 ~~and showing a photograph and signature, a United States~~
80 ~~Government Resident Alien Identification Card, a United States~~
81 ~~passport, or a United States Military identification card.~~

82 (8) A licensee cashing payment instruments may not assess
83 the cost of collections, other than fees for insufficient funds
84 as provided by law, without a judgment from a court of competent
85 jurisdiction.

86 (9) If a check is returned to a licensee from a payor
87 financial institution due to lack of funds, a closed account, or
88 a stop-payment order, the licensee may seek collection pursuant
89 to s. 68.065. In seeking collection, the licensee must comply
90 with the prohibitions against harassment or abuse, false or
91 misleading representations, and unfair practices in the Fair
92 Debt Collections Practices Act, 15 U.S.C. ss. 1692d, 1692e, and
93 1692f. A violation of this subsection is a deceptive and unfair
94 trade practice and constitutes a violation of the Deceptive and
95 Unfair Trade Practices Act under part II of chapter 501. In
96 addition, a licensee must comply with the applicable provisions

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97 of the Consumer Collection Practices Act under part VI of
98 chapter 559, including s. 559.77.

99 Section 40. Section 560.310, Florida Statutes, is amended
100 to read:

101 560.310 Records of check cashers and foreign currency
102 exchangers.--

103 (1) In addition to the record retention requirements
104 specified in s. 560.110, a person engaged in check cashing must
105 maintain the following:

106 (a) Customer files, as prescribed by rule, on all
107 customers who cash corporate or third-party payment instruments
108 exceeding \$1,000.

109 (b) For any payment instrument accepted having a face
110 value of \$1,000 or more:

111 1. A copy of the personal identification that bears a
112 photograph of the customer used as identification and presented
113 by the customer. Acceptable personal identification is limited
114 to a valid driver's license; a state identification card issued
115 by any state of the United States or its territories or the
116 District of Columbia, and showing a photograph and signature; a
117 United States Government Resident Alien Identification Card; a
118 passport; or a United States Military identification card.

119 2. A thumbprint of the customer taken by the licensee.

120 (c) A payment instrument log that must be maintained