

By Representatives Clemons, Safley and Ziebarth

1 A bill to be entitled
2 An act relating to money transmitters; amending
3 s. 560.103, F.S.; revising certain definitions;
4 amending s. 560.111, F.S.; specifying a
5 prohibited activity; amending s. 560.114, F.S.;
6 specifying additional grounds for certain
7 disciplinary action; amending s. 560.118, F.S.;
8 authorizing the Department of Banking and
9 Finance to require certain audits or
10 examinations; providing for costs; amending s.
11 560.128, F.S.; authorizing the department to
12 require money transmitters to display a copy of
13 registrations at certain locations; amending s.
14 560.205, F.S.; specifying additional required
15 information in registration applications;
16 providing an effective date.

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18 Be It Enacted by the Legislature of the State of Florida:

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20 Section 1. Subsections (9) and (11) of section
21 560.103, Florida Statutes, are amended to read:

22 560.103 Definitions.--As used in the code, unless the
23 context otherwise requires:

24 (9) "Funds transmitter" means a person who engages in
25 the receipt of currency or payment instruments ~~money~~ for the
26 purpose of transmission by any means, including transmissions
27 within this country or to or from locations outside this
28 country, by wire, facsimile, electronic transfer, courier, or
29 otherwise.

30 (11) "Money transmitter-affiliated party" means any
31 director, officer, responsible person, employee, authorized

1 vendor, independent contractor of a money transmitter, any or
2 ~~a~~ person who has filed, is required to file, or is found to
3 control a money transmitter pursuant to s. 560.127, or any
4 person engaged in any jurisdiction, at any time, in the
5 business of money transmission as a controlling shareholder,
6 director, officer, or responsible person.

7 Section 2. Paragraph (f) is added to subsection (1) of
8 section 560.111, Florida Statutes, to read:

9 560.111 Prohibited acts and practices.--

10 (1) It is unlawful for any money transmitter or money
11 transmitter-affiliated party to:

12 (f) Engage in any act in violation of 18 U.S.C. s.
13 1956, 31 U.S.C. s. 5324, or any state or federal criminal,
14 civil, or administrative law relating to the business of money
15 transmission, which may cause the denial or revocation of a
16 money transmitter license or registration in such
17 jurisdiction.

18 Section 3. Subsection (1) of section 560.114, Florida
19 Statutes, is amended, and paragraphs (d), (e), and (f) are
20 added to subsection (2) of said section, to read:

21 560.114 Disciplinary actions.--

22 (1) The following actions by a money transmitter, or a
23 money transmitter-affiliated party, are violations of the code
24 and constitute grounds for the issuance of a cease and desist
25 order, the issuance of a removal order, the denial of a
26 registration application or the suspension or revocation of
27 any registration previously issued pursuant to the code, or
28 the taking of any other action within the authority of the
29 department pursuant to the code:

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1 (a) Knowing failure to comply with any provision of
2 the code, any rule or order adopted pursuant thereto, or any
3 written agreement entered into with the department.

4 (b) Fraud, misrepresentation, deceit, or gross
5 negligence in any transaction involving money transmission,
6 regardless of reliance thereon by, or damage to, a money
7 transmitter customer.

8 (c) Fraudulent misrepresentation, circumvention, or
9 concealment of any matter required to be stated or furnished
10 to a money transmitter customer pursuant to the code,
11 regardless of reliance thereon by, or damage to, such
12 customer.

13 (d) False, deceptive, or misleading advertising by a
14 money transmitter or authorized vendor.

15 (e) Failure to maintain, preserve, and keep available
16 for examination all books, accounts, or other documents
17 required by the code, by any rule or order adopted pursuant to
18 the code, or by any agreement entered into with the
19 department.

20 (f) Any fact or condition that exists that, if it had
21 existed or had been known to exist at the time the money
22 transmitter applied for registration, would have been grounds
23 for denial of registration.

24 (g) A willful refusal to permit the examination or
25 inspection of books and records in an investigation or
26 examination by the department, pursuant to the provisions of
27 the code, or to comply with a subpoena issued by the
28 department.

29 (h) Failure of the money transmitter or authorized
30 vendor to pay a judgment recovered in any court in this state
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1 by a claimant in an action arising out of a money transmission
2 transaction within 30 days after the judgment becomes final.

3 (i) Engaging in a prohibited act or practice.

4 (j) Insolvency or operating in an unsafe and unsound
5 manner.

6 (k) Failure by a money transmitter to remove a money
7 transmitter-affiliated party after the department has issued
8 and served upon the money transmitter a final order setting
9 forth a finding that the money transmitter-affiliated party
10 has knowingly violated any provision of the code.

11 (2) In addition to the acts specified in subsection
12 (1), the following acts are grounds for denial of registration
13 or for revocation, suspension, or restriction of registration
14 previously granted:

15 (d) Having an application for registration, or a
16 registration or its equivalent, to practice any profession or
17 occupation denied, suspended, revoked, or otherwise acted
18 against by a registering authority in any jurisdiction for any
19 violation of 18 U.S.C. s. 1956, 31 U.S.C. s. 5324, or any
20 state or federal criminal, civil, or administrative law
21 relating to the business of money transmission, which may
22 cause the denial or revocation of a money transmitter license
23 or registration in such jurisdiction.

24 (e) Having been convicted or found guilty of, or
25 having pled guilty or nolo contendere to, a crime pursuant to
26 18 U.S.C. s. 1956 or 31 U.S.C. s. 5324.

27 (f) Any action that would be grounds for denial of a
28 registration or for revocation, suspension, or restriction of
29 a registration previously granted under part III.

30 Section 4. Subsection (1) of section 560.118, Florida
31 Statutes, is amended to read:

1 560.118 Examinations, reports, and internal audits;
2 penalty.--

3 (1)(a) The department may conduct an examination of a
4 money transmitter or authorized vendor by providing not less
5 than 15 days' advance notice to the money transmitter or
6 authorized vendor; however, whenever the department has reason
7 to believe that a money transmitter or authorized vendor is
8 engaging in an unsafe and unsound practice, or has violated or
9 is violating any provision of the code, the department may
10 make an examination of such money transmitter or authorized
11 vendor without providing advance notice. The department may
12 accept an audit or examination from ~~of~~ any appropriate
13 regulatory agency or ~~an audit~~ from an independent third party
14 ~~a certified public accountant~~ with respect to the operations
15 of a money transmitter or an authorized vendor. The department
16 may also make a joint or concurrent examination with any
17 appropriate regulatory agency. The department may furnish a
18 copy of all examinations made of such money transmitter or
19 authorized vendor to the money transmitter and any appropriate
20 regulatory agency provided that such agency agrees to abide by
21 the confidentiality provisions as set forth in chapter 119.

22 (b) The department may require an examination or audit
23 of a money transmitter or authorized vendor by an independent
24 party which has been approved by the department. The cost of
25 any such examination or audit shall be borne by the money
26 transmitter or authorized vendor.

27 (c)~~(b)~~ The department may recover the costs of a
28 regular examination and supervision of a money transmitter or
29 authorized vendor; however, the department may not recover the
30 costs of more than one examination in any 12-month period
31 unless the department has determined that the money

1 transmitter or authorized vendor is operating in an unsafe or
2 unsound or unlawful manner.

3 (d)~~(e)~~ The department may, by rule, set a maximum
4 per-day examination cost for a regular examination. Such
5 per-day cost may be less than that required to fully
6 compensate the department for costs associated with the
7 examination. For the purposes of this section, "costs" means
8 the salary and travel expenses directly attributable to the
9 field staff examining the money transmitter or authorized
10 vendor, and the travel expenses of any supervisory staff
11 required as a result of examination findings. Reimbursement
12 for such costs incurred under this subsection must be
13 postmarked no later than 30 days after the date of receipt of
14 a notice stating that such costs are due. The department may
15 levy a late payment penalty of up to \$100 per day or part
16 thereof that a payment is overdue, unless the late payment
17 penalty is excused for good cause. In excusing any such late
18 payment penalty, the department may consider the prior payment
19 history of the money transmitter or authorized vendor.

20 Section 5. Section 560.128, Florida Statutes, is
21 amended to read:

22 560.128 Consumer disclosure.--

23 (1) Every money transmitter and authorized vendor
24 shall provide each consumer of a money transmitter transaction
25 a toll-free telephone number for the purpose of consumer
26 contacts; however, in lieu of such toll-free telephone number,
27 the money transmitter or authorized vendor may provide the
28 address and telephone number of the department.

29 (2) The department, by rule, may require each money
30 transmitter to display a copy of its registration at each
31 location at which the money transmitter engages in the

