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DATE: February 27, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
BANKING
ANALYSIS**

BILL #: HB 597
RELATING TO: Money Transmitters' Code
SPONSOR(S): Representative(s) Bean
TIED BILL(S): HB 213

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) BANKING
 - (2) BUSINESS REGULATION
 - (3) COUNCIL FOR COMPETITIVE COMMERCE
 - (4)
 - (5)
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I. SUMMARY:

The Money Transmitters' Code (Chapter 560, F.S.) provides for licensure and regulation of the money transmitter industry by the Department of Banking and Finance. Money transmitters are defined in the code as persons located or doing business in the state who act as payment instrument sellers, foreign currency exchangers, check cashers or funds transmitters. The department regulates the industry through licensure, examination and investigation with corresponding fees and enforcement powers. This bill conforms regulatory provisions in Chapter 560, F.S., which relate to fee structure, to those statutorily provided for other financial institutions under the Department of Banking and Finance's regulatory purview. Specifically, the bill:

- eliminates the department's authority to set fees by rule and consolidates examination fees with license application and renewal fees;
- further revises the fee structure by requiring an initial application fee of \$50 for each branch location a licensee operates in the state or for each authorized vendor, in addition to the licensee's current registration fee;
- clarifies that the registration renewal period is biennial;
- increases the cap on the optional aggregate 2-year registration renewal fee for authorized vendors and branch locations, from \$5,000 to \$20,000;
- provides notification and registration procedures for adding new branch locations or authorized vendors; and
- makes numerous technical revisions to correct statutory cross references.

The department estimates that the increased annual revenue resulting from the revised fee structure provided in this bill will be \$254,525.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

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|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

Regulatory fees for money transmitters are raised.

B. PRESENT SITUATION:

The Money Transmitters' Code (Chapter 560, F.S.) provides for licensure and regulation of the money transmitter industry by the Department of Banking and Finance. Money transmitters are defined in the code as persons, located or doing business in the state who act as payment instrument sellers, foreign currency exchangers, check cashers or funds transmitters.

- Part I provides general regulations for all licensees and authorizes the department to charge licensee's per diem examination fees for regular examinations and supervision.
- Part II of the Code specifically applies to payment instrument sellers and funds transmitters and requires an initial investigation fee for each licensee of \$500 and a biennial renewal fee of \$1,000 for each licensee. A \$50 fee is required for each authorized vendor or branch location or an optional aggregate fee of \$5,000 is required to register all such vendors or locations operating in the state.
- Part III applies to check cashers¹ and foreign currency exchangers and requires an initial investigation fee for each licensee of \$250 and a biennial renewal fee of \$500 for each licensee. A \$50 fee is required for each authorized vendor or branch location or an optional aggregate fee of \$5,000 is required to register all such vendors or locations operating in the state.

When the department began regulating money transmitters in 1994, there were 9 licensees registered with 9,748 branch locations or authorized vendors registered. Currently there are 12 licensees registered with 22,384 branch locations or authorized vendors registered. The department maintains that this exponential growth in the number of branch locations and authorized vendors is due in part to the number of check cashers who are now doing business in Florida.

C. EFFECT OF PROPOSED CHANGES:

This bill conforms regulatory provisions in Chapter 560, F.S., which relate to fee structure, to those statutorily provided for other financial institutions under the Department of Banking and Finance's regulatory purview. The primary substantive revisions relate to the way in which the department

¹ Persons engaged in cashing checks or exchanging foreign currency as an incidental part of their normal activities as sellers of retail sales of good or services are exempt from regulation under Part III if their compensation for cashing checks or exchanging currency does not exceed 5 percent of the businesses annual total gross from the sale of goods or services.

assesses the application, examination, and investigation fees for money transmitter businesses and their branch locations and authorized vendors. This bill revises the fee structure by assessing one fee for all regulatory activities instead of segregating those activities and related fees and incorporates coverage of branch locations and authorized vendors into this scheme by requiring an initial fee for such entities. The bill clarifies that the renewal period is biennial and revises the procedure for handling expired registrations. Additionally, the optional biennial aggregate fee for renewing the registration of these entities is significantly increased and this aggregate option, and related cap, is added as an option for the initial fee for branch locations and authorized vendors. The bill also provides a procedure for registering such entities as they are added.

The department asserts that in addition to conforming these regulatory procedures to that of the other financial services it regulates, the fee assessment revisions and increases will enable the department to adequately enforce the regulations of an industry which has experienced very rapid growth in the past six years.

D. SECTION-BY-SECTION ANALYSIS:

Section 1 amends s. 560.119, F.S., removing a reference to examination fees and directing the deposit of fees and assessments from the Financial Institution Regulatory Trust Fund to the department's Regulatory Trust Fund. The Financial Institution Regulatory Trust Fund primarily funds the department's regulation of banks and credit unions. The Regulatory Trust Fund primarily funds the regulation of all other financial services entities licensed by the department.

**Sections 2 – 5 relate to payment instrument sellers and money transmitters
(Part II of chapter 560)**

Section 2 amends s. 560.205, F.S., consolidating examination fees with application fees and establishing a \$50 fee for each branch office or authorized vendor.

Section 3 amends s. 560.206, F.S., clarifying that the initial licensing period is two years.

Section 4 amends s. 560.207, F.S., establishing fees for late renewal of licenses and requiring a new application be filed when a licensee is more than 60 days late with a license renewal. A \$50 fee for each branch office or a \$20,000 fee to cover all branches and authorized vendors that are currently registered in the state at the time of renewal shall accompany each biennial renewal. The renewal application deadline is extended from March 31 to April 30.

Section 5 amends s. 560.208, F.S., requiring each registrant to identify each branch office or authorized vendor to the department within 60 days after the date of designation by the registrant, filed with a \$50 fee and a financial statement demonstrating compliance with s. 560.209 (1), F.S., or a quarterly report filed in compliance with s. 560.118(2), F.S. The financial statement must be dated within 90 days after the date of designation of the authorized vendor or location. This section will not apply to offices or vendors designated by the registrant prior to the effective date of this provision. The registrant must notify the department of a branch closure or vendor losing authorization within 10 days of either occurrence.

**Sections 6 and 7 relate to check cashers and foreign currency exchangers
(Part III of chapter 560)**

Section 6 amends s. 560.307, F.S., consolidating examination fees with application fees, requiring a \$50 fee for each branch location, and requiring each registrant to identify each branch office or authorized vendor to the department within 60 days after the date of designation by the registrant. This section will not apply to offices or vendors designated by the registrant prior to the effective

date of this provision. The department may prescribe by rule, forms that registrants use to notify the department of each branch location or authorized vendor, and the registrant must notify the department of a branch closure or vendor losing authorization within 10 days of either occurrence.

Section 7 amends s. 560.308, F.S., establishing a late fee that the registrant must file with the department within 60 days after the expiration of an existing registration in order to reinstate registration. If a renewal application is not filed within 60 days after expiration, a new application is required. A \$50 fee for each branch office or a \$20,000 fee to cover all branches and authorized vendors that are currently registered in the state at the time of renewal shall accompany each biennial renewal.

Section 8 repeals paragraphs (d) and (e) of subsection 91) of s. 560.118, F.S., effectively removing reference to costs and per diem expenses for examinations by the department.

Section 9 provides that this act would become effective upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

	<u>2001-2002</u>	<u>2002-2003</u>	<u>2003-2004</u>
Regulatory Trust Fund	\$ 254,525	\$ 254,525	\$ 254,525

2. Expenditures:

Regulatory Trust Fund	\$ 254,525	\$ 254,525	\$ 254,525
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B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The fees for first time money transmitter licensees that have branch locations and authorized vendors will increase as will the renewal fees for those licensees that have opted for the aggregate capped fee for branch locations and authorized vendors.

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require cities or counties to spend funds or to take any action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the revenue raising authority of any city or county.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not affect the amount of state tax shared with a city or county.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None noted.

B. RULE-MAKING AUTHORITY:

Fees formerly capped by statute, but set by rule, are now established by statute.

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON BANKING:

Prepared by:

Staff Director:

Susan F. Cutchins

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