

By Senator Dockery

15-1113B-04

1 A bill to be entitled
2 An act relating to securities transactions;
3 amending s. 560.103, F.S.; defining the term
4 "unsafe and unsound practice" for purposes of
5 the Money Transmitters' Code to include failure
6 to comply with specified provisions of the Code
7 of Federal Regulations relating to money and
8 finance; amending s. 560.109, F.S.; authorizing
9 the Office of Financial Regulation of the
10 Financial Services Commission to make
11 investigations or examinations to determine a
12 violation of provisions of the Code of Federal
13 Regulations relating to money and finance;
14 amending s. 560.114, F.S.; providing for
15 disciplinary actions for failure to maintain
16 all books, accounts, or other documents
17 pursuant to provisions of the Code of Federal
18 Regulations relating to money and finance;
19 amending s. 560.129, F.S.; providing that
20 financial records or information may be
21 furnished to any law enforcement agency;
22 providing an effective date.

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

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26 Section 1. Subsection (21) of section 560.103, Florida
27 Statutes, is amended to read:

28 560.103 Definitions.--As used in the code, unless the
29 context otherwise requires:

30 (21) "Unsafe and ~~or~~ unsound practice" means:
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1 (a) Any practice or conduct found by the office to be
2 contrary to generally accepted standards applicable to the
3 specific money transmitter, or a violation of any prior order
4 of an appropriate regulatory agency, which practice, conduct,
5 or violation creates the likelihood of material loss,
6 insolvency, or dissipation of assets of the money transmitter
7 or otherwise materially prejudices the interests of its
8 customers; or-

9 (b) Failure to adhere to the provisions of 31 C.F.R.
10 ss. 103.20, 103.22, 103.27, 103.28, 103.29, 103.33, 103.37,
11 103.41, and 103.125 as they existed on March 31, 2004.

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13 In making a this determination under this subsection, the
14 office must consider the size and condition of the money
15 transmitter, the magnitude of the loss, the gravity of the
16 violation, and the prior conduct of the person or business
17 involved.

18 Section 2. Subsection (1) of section 560.109, Florida
19 Statutes, is amended to read:

20 560.109 Investigations, subpoenas, hearings, and
21 witnesses.--

22 (1) The office may make investigations or examinations
23 as prescribed in s. 560.118, within or outside this state,
24 which it deems necessary in order to determine whether a
25 person has violated any provision of the code, or the rules
26 adopted by the commission pursuant to the code, or 31 C.F.R.
27 ss. 103.20, 103.22, 103.27, 103.28, 103.29, 103.33, 103.37,
28 103.41, and 103.125 as they existed on March 31, 2004.

29 Section 3. Paragraph (e) of subsection (1) of section
30 560.114, Florida Statutes, is amended to read:

31 560.114 Disciplinary actions.--

1 (1) The following actions by a money transmitter or
2 money transmitter-affiliated party are violations of the code
3 and constitute grounds for the issuance of a cease and desist
4 order, the issuance of a removal order, the denial of a
5 registration application or the suspension or revocation of
6 any registration previously issued pursuant to the code, or
7 the taking of any other action within the authority of the
8 office pursuant to the code:

9 (e) Failure to maintain, preserve, and keep available
10 for examination all books, accounts, or other documents
11 required by the code, by any rule or order adopted pursuant to
12 the code, by 31 C.F.R. ss. 103.20, 103.22, 103.27, 103.28,
13 103.29, 103.33, 103.37, 103.41, and 103.125 as they existed on
14 March 31, 2004, or by any agreement entered into with the
15 office.

16 Section 4. Subsection (2) of section 560.129, Florida
17 Statutes, is amended to read:

18 560.129 Confidentiality.--

19 (2) This section does not prevent or restrict:

20 (a) Furnishing records or information to any
21 appropriate regulatory agency or law enforcement agency if
22 such agency adheres to the confidentiality provisions of the
23 code;

24 (b) Furnishing records or information to an
25 independent third party or a certified public accountant who
26 has been approved by the office to conduct an examination
27 under s. 560.118(1)(b), if the independent third party or
28 certified public accountant adheres to the confidentiality
29 provisions of the code; or

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1 (c) Reporting any suspected criminal activity, with
2 supporting documents and information, to appropriate law
3 enforcement or prosecutorial agencies.

4 Section 5. This act shall take effect upon becoming a
5 law.

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8 SENATE SUMMARY

9 Revises the definition of the term "unsafe or unsound
10 practice for purposes of the Money Transmitters' Code."
11 Provides that the Office of Financial Regulation may make
12 investigations or examinations to determine a violation
13 of the Code of Federal Regulations relating to money and
14 finance. Provides disciplinary actions for failure to
15 maintain all books, accounts, or other documents pursuant
16 to the Code of Federal Regulations relating to money and
17 finance. Provides that financial records or information
18 may be furnished to any law enforcement agency.
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