

By the Committee on Banking and Insurance; and Senator Dockery

311-2306-04

1                                   A bill to be entitled  
2           An act relating to money transmitters; amending  
3           s. 560.103, F.S.; defining the term "unsafe and  
4           unsound practice" for purposes of the Money  
5           Transmitters' Code to include failure to comply  
6           with specified provisions of the Code of  
7           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          amending s. 560.208, F.S.; including business  
23          by electronic transfer in the business that  
24          registrants who sell or issue payment  
25          instruments or transmit funds may conduct;  
26          exempting, under specified conditions, a  
27          registrant who charges a different price for a  
28          funds transmission service from a penalty under  
29          s. 501.0117; providing an effective date.

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

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

3 560.103 Definitions.--As used in the code, unless the  
4 context otherwise requires:

5 (21) "Unsafe and ~~or~~ unsound practice" means:

6 (a) Any practice or conduct found by the office to be  
7 contrary to generally accepted standards applicable to the  
8 specific money transmitter, or a violation of any prior order  
9 of an appropriate regulatory agency, which practice, conduct,  
10 or violation creates the likelihood of material loss,  
11 insolvency, or dissipation of assets of the money transmitter  
12 or otherwise materially prejudices the interests of its  
13 customers; ~~or~~

14 (b) Failure to adhere to the provisions of 31 C.F.R.  
15 ss. 103.20, 103.22, 103.27, 103.28, 103.29, 103.33, 103.37,  
16 103.41, and 103.125 as they existed on March 31, 2004.

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18 In making a this determination under this subsection, the  
19 office must consider the size and condition of the money  
20 transmitter, the magnitude of the loss, the gravity of the  
21 violation, and the prior conduct of the person or business  
22 involved.

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

25 560.109 Investigations, subpoenas, hearings, and  
26 witnesses.--

27 (1) The office may make investigations or examinations  
28 as prescribed in s. 560.118, within or outside this state,  
29 which it deems necessary in order to determine whether a  
30 person has violated any provision of the code, ~~or~~ the rules  
31 adopted by the commission pursuant to the code, or 31 C.F.R.

1 ss. 103.20, 103.22, 103.27, 103.28, 103.29, 103.33, 103.37,  
2 103.41, and 103.125 as they existed on March 31, 2004.

3 Section 3. Paragraph (e) of subsection (1) of section  
4 560.114, Florida Statutes, is amended to read:

5 560.114 Disciplinary actions.--

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

14 (e) Failure to maintain, preserve, and keep available  
15 for examination all books, accounts, or other documents  
16 required by the code, by any rule or order adopted pursuant to  
17 the code, by 31 C.F.R. ss. 103.20, 103.22, 103.27, 103.28,  
18 103.29, 103.33, 103.37, 103.41, and 103.125 as they existed on  
19 March 31, 2004, or by any agreement entered into with the  
20 office.

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

23 560.129 Confidentiality.--

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

25 (a) Furnishing records or information to any  
26 appropriate regulatory agency or law enforcement agency if  
27 such agency adheres to the confidentiality provisions of the  
28 code;

29 (b) Furnishing records or information to an  
30 independent third party or a certified public accountant who  
31 has been approved by the office to conduct an examination

1 under s. 560.118(1)(b), if the independent third party or  
2 certified public accountant adheres to the confidentiality  
3 provisions of the code; or

4 (c) Reporting any suspected criminal activity, with  
5 supporting documents and information, to appropriate law  
6 enforcement or prosecutorial agencies.

7 Section 5. Subsection (1) of section 560.208, Florida  
8 Statutes, is amended to read:

9 560.208 Conduct of business.--

10 (1) A registrant may conduct its business at one or  
11 more locations within this state through branches or by means  
12 of authorized vendors, as designated by the registrant,  
13 including the conduct of business through electronic transfer,  
14 such as by the telephone or the Internet. Notwithstanding and  
15 without violating s. 501.0117, a registrant may charge a  
16 different price for a funds transmission service based on the  
17 mode of transmission used in the transaction, so long as the  
18 price charged for a service paid for with a credit card is not  
19 greater than the price charged when that service is paid for  
20 with currency or other similar means accepted within the same  
21 mode of transmission.

22 Section 6. This act shall take effect upon becoming a  
23 law.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 2562

A money transmitter registrant is authorized to conduct business within the state by means of electronic transfer, and to charge a different price for funds transmission based on the mode of transmission used in the transaction, so long as the price charges for a service paid with a credit card is not greater than a price charged when that service is paid by currency or similar means accepted within the same mode of transmission. The bill also provides that this provision would not be deemed a violation of s. 501.0117, F.S., which prohibits the imposition of a surcharge on a transaction if the transaction is paid by credit card in lieu of cash or currency.