

By the Committee on Banking and Insurance

597-04187-08

20082158__

1 A bill to be entitled

2 An act relating to money services businesses; changing the
3 name of money transmitters to money services businesses;
4 requiring licensure rather than registration; amending s.
5 560.103, F.S.; revising definitions; defining the terms
6 "adjusted net worth," "affiliated party," "branch office,"
7 "cashing," "compliance officer," "electronic instrument,"
8 "financial audit report," "foreign affiliate," "licensee,"
9 "location," "monetary value," "outstanding money
10 transmission," and "stored value"; amending s. 560.104,
11 F.S.; revising provision providing exemptions from ch.
12 560, F.S.; amending s. 560.105, F.S.; revising provisions
13 relating to the powers of the Office of Financial
14 Regulation and the Financial Services Commission; amending
15 s. 560.109, F.S.; revising provisions relating to
16 examinations and investigations conducted by the office;
17 requiring that the office periodically examine each
18 licensee; requiring the office to report certain
19 violations to a criminal investigatory agency; requiring
20 that the office annually report to the Legislature
21 information concerning investigations and examinations and
22 the total amount of fines assessed and collected; creating
23 s. 560.1091, F.S.; requiring persons examined to pay the
24 expenses of examination as set by rule of the commission;
25 providing for the deposit of funds collected from
26 licensees; requiring payment for travel expenses and
27 living expenses and compensation for persons making the
28 examinations from such funds or from funds budgeted for
29 such purposes; creating s. 560.110, F.S.; providing for

597-04187-08

20082158__

30 record retention by licensees; amending s. 560.111, F.S.;

31 revising the list of prohibited acts by a money services

32 business; amending s. 560.113, F.S.; providing for the

33 establishment of a receivership or the payment of

34 restitution by a person found to have violated ch. 560,

35 F.S.; amending s. 560.114, F.S.; revising grounds for the

36 disciplinary actions; amending s. 560.115, F.S.; revising

37 provisions relating to the voluntary surrender of a

38 license; amending s. 560.116, F.S.; revising provisions

39 relating to the granting of immunity for providing

40 information about alleged violations of ch. 560, F.S.;

41 amending s. 560.118, F.S.; revising provisions relating to

42 required reports; deleting an exemption from the

43 requirement to file an annual financial report;

44 transferring, renumbering, and amending s. 560.119, F.S.;

45 revising provisions providing for the deposit of fees and

46 assessments; amending s. 560.121, F.S.; revising

47 restriction on access to records held by a court or the

48 Legislature; amending s. 560.123, F.S.; revising

49 provisions relating to the Florida Control of Money

50 Laundering in Money Services Business; creating s.

51 560.1235, F.S.; requiring a licensee to comply with state

52 and federal money laundering laws and rules; amending s.

53 560.124, F.S.; revising provisions relating to sharing

54 reported information; amending s. 560.125, F.S.; revising

55 provisions relating to unlicensed activity; amending s.

56 560.126, F.S.; revising provisions relating to certain

57 notice requirements by a licensee; amending s. 560.127,

58 F.S.; revising provisions relating to the control of a

597-04187-08

20082158__

59 money services business; amending s. 560.128, F.S.;

60 revising provisions relating to customer contacts and

61 license display; amending s. 560.129, F.S.; revising

62 provisions relating to the confidentiality of certain

63 records; creating s. 560.140, F.S.; providing licensing

64 standards for a money services business; creating s.

65 560.141, F.S.; providing for a license application;

66 creating s. 560.142, F.S.; providing for license renewal;

67 creating s. 560.143, F.S.; providing for license fees;

68 amending s. 560.203, F.S.; revising the exemption from

69 licensure for authorized agents of a money services

70 business; amending s. 560.204, F.S.; revising provisions

71 relating to the requirement for licensure of money

72 transmitters or sellers of payment instruments under part

73 II of ch. 560, F.S.; amending s. 560.205, F.S.; providing

74 additional requirements for a license application;

75 amending s. 560.208, F.S.; revising provisions relating to

76 the conduct of a licensee; creating s. 560.2085, F.S.;

77 providing requirements for authorized agents; amending s.

78 560.209, F.S.; revising provisions relating to a

79 licensee's adjusted net worth and the filing of a

80 corporate surety bond; requiring a financial audit report;

81 increasing the upper limit of the bond; deleting the

82 option of waiving the bond; amending s. 560.210, F.S.;

83 revising provisions relating to permissible investments;

84 amending s. 560.211, F.S.; revising provisions relating to

85 required recordkeeping under part II of ch. 560, F.S.;

86 amending s. 560.212, F.S.; revising provisions relating to

87 licensee liability; amending s. 560.213, F.S.; revising

597-04187-08

20082158__

88 provisions relating information that must be printed on a
89 payment instrument; amending s. 560.303, F.S.; revising
90 provisions relating to the licensure of check cashers
91 under part II of ch. 560, F.S.; amending s. 560.304, F.S.;
92 revising provisions relating to exemptions from licensure;
93 limiting the exemption for the payment of instruments
94 below a certain value; amending s. 560.309, F.S.; revising
95 provisions relating to the conduct of check cashers;
96 providing additional requirements; amending s. 560.310,
97 F.S.; revising requirements for licensee records;
98 specifying the maintenance of identification records for
99 certain customers; amending s. 560.402, F.S.; revising
100 definitions relating to deferred presentment providers;
101 amending s. 560.403, F.S.; revising provisions relating to
102 the licensing requirements for deferred presentment
103 providers; amending s. 560.404, F.S.; revising provisions
104 relating to deferred presentment transactions; amending s.
105 560.405, F.S.; revising provisions relating to the
106 redemption or deposit of a deferred presentment
107 transaction; amending s. 560.406, F.S.; revising
108 provisions relating to worthless checks; amending ss.
109 499.005, 499.0691, 501.95, 538.03, 896.101, 896.104, and
110 921.0022, F.S.; conforming cross-references; repealing s.
111 560.101, F.S., relating to a short title; repealing s.
112 560.102, F.S., relating to purpose and application;
113 repealing s. 560.106, F.S., relating to chapter
114 constructions; repealing s. 560.1073, F.S., relating to
115 false or misleading statements or documents; repealing s.
116 560.108, F.S., relating to administrative enforcement

597-04187-08

20082158__

117 guidelines; repealing s. 560.112, F.S., relating to
118 disciplinary action procedures; repealing s. 560.117,
119 F.S., relating to administrative fines; repealing s.
120 560.200, F.S., relating to a short title; repealing s.
121 560.202, F.S., relating to definitions; repealing s.
122 560.206, F.S., relating to the investigation of
123 applicants; repealing s. 560.207, F.S., relating to
124 registration; repealing s. 560.301, F.S., relating to a
125 short title; repealing s. 560.302, F.S., relating to
126 definitions; repealing s. 560.305, F.S., relating to
127 application for registration; repealing s. 560.306, F.S.,
128 relating to standards; repealing s. 560.307, F.S.,
129 relating to fees; repealing s. 560.308, F.S., relating to
130 registration; repealing s. 560.401, F.S., relating to a
131 short title; repealing s. 560.407, F.S., relating to
132 required records; providing an effective date.
133

134 Be It Enacted by the Legislature of the State of Florida:
135

136 Section 1. Section 560.103, Florida Statutes, is amended to
137 read:

138 560.103 Definitions.--As used in this chapter, the term ~~the~~
139 ~~code, unless the context otherwise requires:~~

140 (1) "Adjusted net worth" means assets minus liabilities,
141 determined in accordance with United States generally accepted
142 accounting principles, that have been adjusted to exclude the
143 following assets:

144 (a) Goodwill.

597-04187-08

20082158__

145 (b) A home, home furnishings, automobiles, and any other
146 personal items.

147 (c) Advances or loans to an affiliated party.

148 (d) Receivables from officers, directors, shareholders, or
149 affiliated parties other than receivables in the normal course of
150 business.

151 (e) Accounts receivables owed by authorized agents which
152 are due more than 90 days after the date of receipt of monetary
153 value from the customer.

154 (2) "Affiliated party" means a director, officer,
155 responsible person, employee, or foreign affiliate of a money
156 services business, or a person who has a controlling interest in
157 a money services business as provided in s. 560.127.

158 (3)(1) "Appropriate regulator" means a any state, or
159 federal, or foreign agency that, including the commission or
160 office, which has been granted state or federal statutory
161 authority to enforce state, federal, or foreign laws related to a
162 money services business or deferred presentment provider with
163 regard to the money transmission function.

164 (4)(2) "Authorized agent ~~vendor~~" means a person designated
165 by a money services business licensed under part II of this
166 chapter a registrant to act engage in the business of a money
167 transmitter on behalf of the licensee the registrant at locations
168 in this state pursuant to a written contract with the licensee
169 registrant.

170 (5) "Branch office" means the physical location, other than
171 the principal place of business, of a money services business
172 operated by a licensee under this chapter.

597-04187-08

20082158__

173 (6) "Cashing" means providing currency for payment
174 instruments except for travelers checks.

175 ~~(7)(3) "Check casher" means a person who, for compensation,~~
176 ~~sells currency in exchange for payment instruments received,~~
177 ~~except travelers checks and foreign drawn payment instruments.~~

178 ~~(4) "Code" means the "Money Transmitters' Code," consisting~~
179 ~~of:~~

180 ~~(a) Part I of this chapter, relating to money transmitters~~
181 ~~generally.~~

182 ~~(b) Part II of this chapter, relating to payment~~
183 ~~instruments and funds transmission.~~

184 ~~(c) Part III of this chapter, relating to check cashing and~~
185 ~~foreign currency exchange.~~

186 ~~(d) Part IV of this chapter, relating to deferred~~
187 ~~presentments.~~

188 (8) "Commission" means the Financial Services Commission.

189 (9) "Compliance officer" means the individual in charge of
190 overseeing, managing, and ensuring that a money services business
191 is in compliance with all state and federal laws and rules
192 relating to money services businesses, as applicable, including
193 all money laundering laws and rules.

194 ~~(5) "Consideration" means and includes any premium charged~~
195 ~~for the sale of goods, or services provided in connection with~~
196 ~~the sale of the goods, which is in excess of the cash price of~~
197 ~~such goods.~~

198 ~~(10)(6) "Currency" means the coin and paper money of the~~
199 ~~United States or of any other country which is designated as~~
200 ~~legal tender and which circulates and is customarily used and~~
201 ~~accepted as a medium of exchange in the country of issuance.~~

597-04187-08

20082158__

202 Currency includes United States silver certificates, United
203 States notes, and Federal Reserve notes. Currency also includes
204 official foreign bank notes that are customarily used and
205 accepted as a medium of exchange in a foreign country.

206 ~~(7) "Commission" means the Financial Services Commission.~~

207 (11) "Deferred presentment provider" means a person who is
208 licensed under part II or part III of this chapter and has filed
209 a declaration of intent with the office to engage in deferred
210 presentment transactions as provided under part IV of this
211 chapter.

212 (12) "Electronic instrument" means a card, tangible object,
213 or other form of electronic payment for the transmission or
214 payment of money or the exchange of monetary value, including a
215 stored value card or device that contains a microprocessor chip,
216 magnetic stripe, or other means for storing information; that is
217 prefunded; and for which the value is decremented upon each use.

218 (13) "Financial audit report" means a report prepared in
219 connection with a financial audit that is conducted in accordance
220 with generally accepted auditing standards prescribed by the
221 American Institute of Certified Public Accountants by a certified
222 public accountant licensed to do business in the United States,
223 and which must include:

224 (a) Financial statements, including notes related to the
225 financial statements and required supplementary information,
226 prepared in conformity with accounting principles generally
227 accepted in the United States. The notes must, at a minimum,
228 include detailed disclosures regarding receivables that are
229 greater than 90 days, if the total amount of such receivables
230 represent more than 2 percent of the licensee's total assets.

597-04187-08

20082158__

231 (b) An expression of opinion regarding whether the
232 financial statements are presented in conformity with accounting
233 principles generally accepted in the United States, or an
234 assertion to the effect that such an opinion cannot be expressed
235 and the reasons.

236 (14) "Foreign affiliate" means a person located outside
237 this state who has been designated by a licensee to make payments
238 on behalf of the licensee to persons who reside outside this
239 state. The term also includes a person located outside of this
240 state for whom the licensee has been designated to make payments
241 in this state.

242 ~~(8) "Office" means the Office of Financial Regulation of~~
243 ~~the commission.~~

244 (15)~~(9)~~ "Foreign currency exchanger" means a person who
245 exchanges, for compensation, currency of the United States or a
246 foreign government to currency of another government.

247 ~~(10) "Funds transmitter" means a person who engages in the~~
248 ~~receipt of currency or payment instruments for the purpose of~~
249 ~~transmission by any means, including transmissions within this~~
250 ~~country or to or from locations outside this country, by wire,~~
251 ~~facsimile, electronic transfer, courier, or otherwise.~~

252 (16) "Licensee" means a person licensed under this chapter.

253 (17) "Location" means a branch office, mobile location, or
254 an authorized agent whose business activity is regulated under
255 this chapter.

256 (18) "Monetary value" means a medium of exchange, whether
257 or not redeemable in currency.

258 (19)~~(11)~~ "Money services business transmitter" means any
259 person located in or doing business in this state, from this

597-04187-08

20082158__

260 state, or into this state from locations outside this state or
261 country who acts as a payment instrument seller, foreign currency
262 exchanger, check casher, or money funds transmitter,~~or deferred~~
263 ~~presentment provider.~~

264 (20) "Money transmitter" means a person who receives
265 currency, monetary value, or payment instruments for the purpose
266 of transmitting the same by any means, including transmission by
267 wire, facsimile, electronic transfer, courier, the Internet, or
268 through bill payment services or other businesses that facilitate
269 such transfer within this country, or to or from this country.

270 ~~(12) "Money transmitter-affiliated party" means any~~
271 ~~director, officer, responsible person, employee, authorized~~
272 ~~vender, independent contractor of a money transmitter, or a~~
273 ~~person who has filed, is required to file, or is found to control~~
274 ~~a money transmitter pursuant to s. 560.127, or any person engaged~~
275 ~~in any jurisdiction, at any time, in the business of money~~
276 ~~transmission as a controlling shareholder, director, officer, or~~
277 ~~responsible person who becomes involved in a similar capacity~~
278 ~~with a money transmitter registered in this state.~~

279 (21) "Office" means the Office of Financial Regulation of
280 the commission.

281 (22)~~(13)~~ "Officer" means an individual, other than a
282 director ~~whether or not the individual has an official title or~~
283 ~~receives a salary or other compensation, who participates in, or~~
284 ~~has authority to participate, other than in the capacity of a~~
285 ~~director, in, the major policymaking functions of a~~ the money
286 services transmitter business, regardless of whether the
287 individual has an official title or receives a salary or other
288 compensation.

597-04187-08

20082158__

289 (23) "Outstanding money transmission" means a money
290 transmission request to a designated recipient or a refund to a
291 sender that has not been completed.

292 ~~(24)(14)~~ "Outstanding payment instrument ~~instruments~~" means
293 an unpaid payment instrument ~~instruments~~ whose sale has been
294 reported to a licensee ~~registrant~~.

295 ~~(25)(15)~~ "Payment instrument" means a check, draft,
296 warrant, money order, travelers check, electronic instrument, or
297 other instrument, ~~or~~ payment of money, or monetary value whether
298 or not negotiable. The term ~~Payment instrument~~ does not include
299 an instrument that is redeemable by the issuer in merchandise or
300 service, a credit card voucher, or a letter of credit.

301 ~~(26)(16)~~ "Payment instrument seller" means a person who
302 sells a payment instrument.

303 ~~(27)(17)~~ "Person" means an ~~any~~ individual, partnership,
304 association, trust, corporation, limited liability company, or
305 other group, however organized, but does not include a public ~~the~~
306 ~~governments of the United States or this state or any department,~~
307 ~~agency,~~ or instrumentality thereof.

308 ~~(18)~~ ~~"Registrant" means a person registered by the office~~
309 ~~pursuant to the code.~~

310 ~~(28)(19)~~ "Responsible person" means an individual ~~a person~~
311 who is employed by or affiliated with a money services business
312 ~~transmitter~~ and who has principal active management authority
313 over the business decisions, actions, and activities of the money
314 services business ~~transmitter~~ in this state.

315 ~~(29)(20)~~ "Sells ~~Sell~~" means to sell, issue, provide, or
316 deliver.

597-04187-08

20082158__

317 (30) "Stored value" means funds or monetary value
318 represented in digital electronics format, whether or not
319 specially encrypted, and stored or capable of storage on
320 electronic media in such a way as to be retrievable and
321 transferred electronically.

322 ~~(21) "Unsafe and unsound practice" means:~~

323 ~~(a) Any practice or conduct found by the office to be~~
324 ~~contrary to generally accepted standards applicable to the~~
325 ~~specific money transmitter, or a violation of any prior order of~~
326 ~~an appropriate regulatory agency, which practice, conduct, or~~
327 ~~violation creates the likelihood of material loss, insolvency, or~~
328 ~~dissipation of assets of the money transmitter or otherwise~~
329 ~~materially prejudices the interests of its customers; or~~

330 ~~(b) Failure to adhere to the provisions of 31 C.F.R. ss.~~
331 ~~103.20, 103.22, 103.27, 103.28, 103.29, 103.33, 103.37, 103.41,~~
332 ~~and 103.125 as they existed on March 31, 2004.~~

333
334 ~~In making a determination under this subsection, the office must~~
335 ~~consider the size and condition of the money transmitter, the~~
336 ~~magnitude of the loss, the gravity of the violation, and the~~
337 ~~prior conduct of the person or business involved.~~

338 Section 2. Section 560.104, Florida Statutes, is amended to
339 read:

340 560.104 Exemptions.--The following entities are exempt from
341 the provisions of this chapter ~~the code~~:

342 (1) Banks, credit card banks, credit unions, trust
343 companies, associations, offices of an international banking
344 corporation, Edge Act or agreement corporations, or other
345 financial depository institutions organized under the laws of any

597-04187-08

20082158__

346 state or the United States, ~~provided that they do not sell~~
347 ~~payment instruments through authorized vendors who are not such~~
348 ~~entities.~~

349 (2) The United States or any agency or department,
350 ~~instrumentality, or agency~~ thereof.

351 (3) This state or any political subdivision of this state.

352 Section 3. Section 560.105, Florida Statutes, is amended to
353 read:

354 560.105 Supervisory powers; rulemaking.--

355 (1) ~~Consistent with the purposes of the code,~~ The office
356 shall ~~have:~~

357 (a) Supervise ~~Supervision over~~ all money services
358 businesses ~~transmitters~~ and their authorized agents ~~vendors.~~

359 (b) Have access to the books and records of persons ~~over~~
360 ~~whom~~ the office supervises ~~exercises supervision~~ as ~~is~~ necessary
361 to carry out ~~for the performance of~~ the duties and functions of
362 the office under this chapter ~~prescribed by the code.~~

363 (c) ~~Power to~~ Issue orders and declaratory statements,
364 disseminate information, and otherwise administer and enforce
365 this chapter and all related rules in order ~~exercise its~~
366 ~~discretion~~ to effectuate the purposes, policies, and provisions
367 of this chapter ~~the code.~~

368 (2) ~~Consistent with the purposes of the code,~~ The
369 commission may adopt rules pursuant to ss. 120.536(1) and 120.54
370 to administer this chapter ~~implement the provisions of the code.~~

371 (a) ~~(3)~~ The commission may adopt rules pursuant to ss.
372 120.536(1) and 120.54 requiring electronic submission of any
373 forms, documents, or fees required by this chapter, which must
374 ~~code if such rules~~ reasonably accommodate technological or

597-04187-08

20082158__

375 financial hardship. ~~The commission may prescribe by rule~~
376 ~~requirements~~ and provide procedures for obtaining an exemption
377 due to a technological or financial hardship.

378 (b) Rules adopted to regulate money services businesses,
379 including deferred presentment providers, must be responsive to
380 changes in economic conditions, technology, and industry
381 practices.

382 Section 4. Section 560.109, Florida Statutes, is amended to
383 read:

384 560.109 Examinations and investigations, ~~subpoenas,~~
385 ~~hearings, and witnesses.--~~

386 ~~(1)~~ The office may conduct examinations and make
387 investigations or examinations as prescribed in s. 560.118,
388 within or outside this state, which it deems necessary in order
389 to determine whether a person has violated any provision of this
390 chapter and related rules the code, the rules adopted by the
391 commission pursuant to the code, or of any practice or conduct
392 that creates the likelihood of material loss, insolvency, or
393 dissipation of the assets of a money services business or
394 otherwise materially prejudices the interests of their customers
395 31 C.F.R. ss. 103.20, 103.22, 103.27, 103.28, 103.29, 103.33,
396 103.37, 103.41, and 103.125 as they existed on March 31, 2004.

397 (1) The office may examine each licensee as often as is
398 warranted for the protection of customers and in the public
399 interest, but at least once every 5 years. The office shall
400 provide at least 15 days' notice to a money services business,
401 its authorized agent, or license applicant before conducting an
402 examination or investigation. However, the office may conduct an
403 examination or investigation of a money services business,

597-04187-08

20082158__

404 authorized agent, or affiliated party at any time and without
405 advance notice if the office suspects that the money services
406 business, authorized agent, or affiliated party has violated or
407 is about to violate any provisions of this chapter or any
408 criminal laws of this state or of the United States.

409 (2) The office may conduct a joint or concurrent
410 examination with any state or federal regulatory agency and may
411 furnish a copy of all examinations to an appropriate regulator if
412 the regulator agrees to abide by the confidentiality provisions
413 in chapter 119 and this chapter. The office may also accept an
414 examination from any appropriate regulator or, pursuant to s.
415 560.1091, from an independent third party that has been approved
416 by the office.

417 (3) Persons subject to this chapter who are examined or
418 investigated shall make available to the office, its examiners,
419 or investigators, all books, accounts, documents, files,
420 information, assets, and matters that are in their immediate
421 possession or control and that relate to the subject of the
422 examination or investigation.

423 (a) Records not in their immediate possession must be made
424 available to the office, or the office's examiners or
425 investigators, within 3 days after actual notice is served.

426 (b) Upon notice, the office may require that records
427 written in a language other than English be accompanied by a
428 certified translation at the expense of the licensee.

429 (4)-(2)-(a) In the course of or in connection with any
430 examination or ~~an~~ investigation conducted by the office:

431 (a) An employee of the office holding the title and
432 position of a ~~pursuant to the provisions of subsection (1) or an~~

597-04187-08

20082158__

433 ~~investigation or examination in connection with any application~~
434 ~~to the office for the organization or establishment of a money~~
435 ~~transmitter business, or in connection with an examination or~~
436 ~~investigation of a money transmitter or its authorized vendor,~~
437 ~~the office, or any of its officers holding no lesser title and~~
438 ~~position than~~ financial examiner or analyst, financial
439 investigator, ~~or~~ attorney at law, or higher may:

- 440 1. Administer oaths and affirmations.
- 441 2. Take or cause to be taken testimony and depositions.

442 (b) The office, or any of its employees ~~officers~~ holding a
443 title of no lesser title than attorney, ~~or~~ area financial
444 manager, or higher may issue, revoke, quash, or modify subpoenas
445 and subpoenas duces tecum under the seal of the office or cause
446 any such subpoena or subpoena duces tecum to be issued by any
447 county court judge or clerk of the circuit court or county court
448 to require persons to appear before the office at a reasonable
449 time and place to be ~~therein~~ named and to bring such books,
450 records, and documents for inspection as may be ~~therein~~
451 designated. Such subpoenas may be served by a representative of
452 the office or ~~may be served~~ as otherwise provided ~~for~~ by law for
453 the service of subpoenas.

454 (c) ~~In connection with any such investigation or~~
455 ~~examination,~~ The office may allow ~~permit~~ a person to file a
456 statement in writing, under oath, or otherwise as the office
457 ~~determines,~~ as to facts and circumstances specified by the
458 office.

459 (5)(3)(a) ~~If a person does not comply In the event of~~
460 ~~noncompliance~~ with a subpoena issued or caused to be issued by
461 the office pursuant to this section, the office may petition a

597-04187-08

20082158__

462 court of competent jurisdiction ~~the circuit court of the county~~
463 ~~in which the person subpoenaed resides or has its principal place~~
464 ~~of business~~ for an order requiring the subpoenaed person to
465 appear and testify and to produce such ~~books, records, and~~
466 ~~documents~~ as ~~are~~ specified in the ~~such~~ subpoena duces tecum. The
467 office is entitled to the summary procedure provided in s.
468 51.011, and the court shall advance the cause on its calendar.

469 (a) ~~(b)~~ A copy of the petition shall be served upon the
470 person subpoenaed by any person authorized by this section to
471 serve subpoenas, who shall make and file with the court an
472 affidavit showing the time, place, and date of service.

473 (b) ~~(e)~~ At a ~~any~~ hearing on the ~~any such~~ petition, the
474 person subpoenaed, or any person whose interests are ~~will be~~
475 substantially affected by the investigation, examination, or
476 subpoena, may appear and object to the subpoena and to the
477 granting of the petition. The court may make any order that
478 justice requires ~~in order~~ to protect a party or other person and
479 her or his personal and property rights, including, but not
480 limited to, protection from ~~annoyance, embarrassment,~~ oppression,
481 ~~or~~ undue burden, or expense.

482 (c) ~~(d)~~ Failure to comply with an order granting, in whole
483 or in part, a petition for enforcement of a subpoena is a
484 contempt of the court.

485 (6) ~~(4)~~ Witnesses are entitled to the same fees and mileage
486 ~~to which they would be entitled by law for attending~~ as witnesses
487 in the circuit court, except that ~~no~~ fees or mileage is not
488 allowed for the testimony of a person taken at the person's
489 principal office or residence.

597-04187-08

20082158__

490 (7)~~(5)~~ Reasonable and necessary costs incurred by the
491 office and payable to third parties in connection ~~persons~~
492 ~~involved~~ with examinations or investigations may be assessed
493 against any person on the basis of actual costs incurred.
494 Assessable expenses include, but are not limited to, ~~+~~ expenses
495 for: interpreters; certified translations of documents into the
496 English language required by this chapter or related rules;
497 ~~expenses for~~ communications; ~~expenses for~~ legal representation;
498 ~~expenses for~~ economic, legal, or other research, analyses, and
499 testimony; and fees and expenses for witnesses. ~~The failure to~~
500 ~~reimburse the office is a ground for denial of the registration~~
501 ~~application or for revocation of any approval thereof. No such~~
502 Costs may not shall be assessed against a person unless the
503 office has determined that the person has operated or is
504 operating in violation of this chapter ~~the code~~.

505 (8) The office shall report any violation of law that may
506 be a felony to the appropriate criminal investigatory agency
507 having jurisdiction with respect to such violation.

508 (9) The office shall prepare and submit a report to the
509 President of the Senate and the Speaker of the House of
510 Representatives by January 1 of each year which includes:

511 (a) The total number of examinations and investigations
512 that resulted in a referral to a state or federal agency and the
513 disposition of each of those referrals by agency.

514 (b) The total number of initial referrals received from
515 another state or federal agency, the total number of examinations
516 and investigations opened as a result of referrals, and the
517 disposition of each of those cases.

518 (c) The number of examinations or investigations undertaken

597-04187-08

20082158__

519 by the office which were not the result of a referral from
520 another state agency or a federal agency.

521 (d) The total amount of fines assessed and collected by the
522 office as a result of an examination or investigation of
523 activities regulated under parts II and III of this chapter.

524 Section 5. Section 560.1091, Florida Statutes, is created
525 to read:

526 560.1091 Contracted examinations.--The office may contract
527 with third parties to conduct examinations under this chapter.

528 (1) The person or firm selected by the office must not have
529 a conflict of interest that might affect its ability to
530 independently perform its responsibilities with respect to an
531 examination.

532 (2) The examiner must be an independent certified public
533 accountant or information technologist meeting criteria specified
534 in rule.

535 (3) The licensee subject to the examination must pay to the
536 office the expenses of the examination at rates adopted by
537 commission rule.

538 (a) The rates charged must be consistent with rates charged
539 by other persons in a similar profession and comparable with the
540 rates charged for comparable examinations.

541 (b) Allowable expenses include actual travel expenses, an
542 allowance for reasonable living expenses, compensation of the
543 examiner or other person making the examination, and necessary
544 administrative costs directly related to the examination.
545 Allowances for travel and living expenses are limited to those
546 expenses incurred to conduct the examination.

597-04187-08

20082158__

547 (c) A detailed statement of allowable expenses shall be
548 submitted to the office by the examiner and must be approved by
549 the office prior to being submitted by the office to the licensee
550 for payment.

551 (d) Notwithstanding s. 112.061, an examiner conducting an
552 examination of a licensee may be paid for his or her actual
553 travel expenses, reasonable allowance for living expenses, and
554 compensation in accordance with the statement filed with the
555 office by the contractor under paragraph (c). When not examining
556 a licensee, the travel expenses, per diem, and compensation for
557 examiners shall be paid out of moneys budgeted for such purpose
558 and in accordance with s. 112.061.

559 (4) All moneys collected from a licensee for the expenses
560 of an examination shall be deposited into the Regulatory Trust
561 Fund and used by the office to pay the examiner.

562 (5) The commission shall adopt rules to administer this
563 section.

564 Section 6. Section 560.110, Florida Statutes, is created to
565 read:

566 560.110 Records retention.--Each licensee and its
567 authorized agents must maintain all books, accounts, documents,
568 files, and information necessary for determining compliance with
569 this chapter and related rules for 5 years unless a longer period
570 is required by other state or federal law.

571 (1) The records required under this chapter may be
572 maintained by the licensee at any location identified in its
573 license application or by amendment to the application. The
574 licensee must make such records available to the office for

597-04187-08

20082158__

575 examination and investigation in this state within 3 business
576 days after receipt of a written request.

577 (2) The original of any record of a licensee or authorized
578 agent includes a record stored or transmitted by electronic,
579 computerized, mechanized, or other information storage or
580 retrieval or transmission system or device that can generate,
581 regenerate, or transmit the precise data or other information
582 comprising the record. An original also includes the visible data
583 or other information so generated, regenerated, or transmitted if
584 it is legible or can be made legible by enlargement or other
585 process.

586 (3) The commission may adopt rules to administer this
587 section and ss. 560.211 and 560.310. In adopting rules, the
588 commission shall take into consideration the federal regulations
589 that affect the money services business industry or a deferred
590 payment provider, including any guidance issued by a federal
591 regulatory agency.

592 (4) Any person who willfully fails to comply with this
593 section or ss. 560.211 and 560.310 commits a felony of the third
594 degree, punishable as provided in s. 775.082, s. 775.083, or s.
595 775.084.

596 Section 7. Section 560.111, Florida Statutes, is amended to
597 read:

598 560.111 Prohibited acts ~~and practices~~.--

599 (1) A money services business, authorized agent, or
600 affiliated party may not ~~It is unlawful for any money transmitter~~
601 ~~or money transmitter-affiliated party to:~~

602 (a) Receive or possess ~~itself of~~ any property except
603 ~~otherwise than~~ in payment of a just demand, and, with intent to

597-04187-08

20082158__

604 deceive or defraud, to omit to make or to cause to be made a full
605 and true entry thereof in its books and accounts, or to concur in
606 omitting to make any material entry thereof.~~†~~

607 (b) Embezzle, abstract, or misapply any money, property, or
608 thing of value belonging to the money services business, its
609 authorized agent, or customer ~~of the money transmitter or~~
610 ~~authorized vendor~~ with intent to deceive or defraud. ~~such money~~
611 ~~transmitter or authorized vendor;~~

612 (c) Make any false entry in its books, accounts, reports,
613 files, or documents ~~any book, report, or statement of such money~~
614 ~~transmitter or authorized vendor~~ with intent to deceive or
615 defraud ~~such money transmitter, authorized vendor, or another~~
616 person, or with intent to deceive the office, any appropriate
617 regulator ~~other state or federal regulatory agency, or any~~
618 authorized third party representative appointed by the office to
619 examine or investigate the affairs of the money services business
620 or its authorized agent. ~~such money transmitter or authorized~~
621 ~~vendor;~~

622 (d) Engage in an act that violates 18 U.S.C. s. 1956, 18
623 U.S.C. s. 1957, 31 U.S.C. s. 5324, or any other law, rule, or
624 regulation of another state, ~~or of the United States,~~ or any
625 foreign jurisdiction relating to a money services business,
626 deferred presentment provider, ~~the business of money transmission~~
627 or usury which may cause the denial or revocation of a money
628 services business or deferred presentment provider transmitter
629 license or the equivalent registration in that ~~such~~
630 jurisdiction.~~†~~

631 (e) File with the office, sign as a duly authorized
632 representative, or deliver or disclose, by any means, to the

597-04187-08

20082158__

633 office or any of its employees any examination report, report of
634 condition, report of income and dividends, audit, account,
635 statement, file, or document known by it to be fraudulent or
636 false as to any material matter.~~;~~ ~~or~~

637 (f) Place among the assets of a money services business or
638 its authorized agent ~~such money transmitter or authorized vendor~~
639 any note, obligation, or security that the money services
640 business or its authorized agent ~~transmitter or authorized~~
641 ~~vendor~~ does not own or is known to be ~~that to the person's~~
642 ~~knowledge is~~ fraudulent or otherwise worthless, or ~~for any such~~
643 ~~person~~ to represent to the office that any note, obligation, or
644 security ~~carried as an asset of such money transmitter or~~
645 ~~authorized vendor~~ is the property of the money services business
646 or its authorized agent ~~transmitter or authorized vendor~~ and is
647 genuine if it is known to be ~~such person that such representation~~
648 ~~is false or that such note, obligation, or security is~~ fraudulent
649 or otherwise worthless.

650 (2) ~~A It is unlawful for any person~~ may not ~~to~~ knowingly
651 execute, or attempt to execute, a scheme or artifice to defraud a
652 money services business or its authorized agent ~~transmitter or~~
653 ~~authorized vendor~~, or ~~to~~ obtain ~~any of~~ the moneys, funds,
654 credits, assets, securities, or other property owned by, or under
655 the custody or control of, a money services business or its
656 authorized agent ~~transmitter or authorized vendor~~, by means of
657 false or fraudulent pretenses, representations, or promises.

658 (3) Any person who violates any provision of this section
659 commits a felony of the third degree, punishable as provided in
660 s. 775.082, s. 775.083, or s. 775.084.

597-04187-08

20082158__

661 (4) Any person who willfully violates any provision of s.
662 560.403, s. 560.404, s. 560.405, or s. 560.407 commits a felony
663 of the third degree, punishable as provided in s. 775.082, s.
664 775.083, or s. 775.084.

665 Section 8. Section 560.113, Florida Statutes, is amended to
666 read:

667 560.113 Injunctions; receiverships; restitution. ~~Whenever~~
668 ~~a violation of the code is threatened or impending and such~~
669 ~~violation will cause substantial injury to any person, the~~
670 ~~circuit court has jurisdiction to hear any complaint filed by the~~
671 ~~office and, upon proper showing, to issue an injunction~~
672 ~~restraining such violation or granting other such appropriate~~
673 ~~relief.~~

674 (1) If the office determines that any person has engaged in
675 or is about to engage in any action that is a violation of this
676 chapter or related rules, the office may, in addition to or in
677 lieu of other remedies, bring an action on behalf of the state in
678 the circuit court against the person and any other person acting
679 in concert with such person to enjoin such person from engaging
680 in such act. The office may apply for, and on due showing be
681 entitled to have issued, the court's subpoena requiring the
682 appearance of the person and her or his employees, associated
683 persons, or agents and the production of any documents, books, or
684 records that may appear necessary for the hearing of the
685 petition, and to testify or give evidence concerning the acts
686 complained of.

687 (2) In addition to, or in lieu of, the enforcement of a
688 temporary restraining order, temporary injunction, or permanent
689 injunction against the person, the court may, upon application of

597-04187-08

20082158__

690 the office, impound and appoint a receiver or administrator for
691 the property, assets, and business of the defendant, including,
692 but not limited to, any related books, records, documents, or
693 papers. The receiver or administrator shall have all powers and
694 duties conferred by the court as to the custody, collection,
695 administration, winding up, and liquidation of the property and
696 business. The court may issue orders and decrees staying all
697 pending suits and enjoining any further suits affecting the
698 receiver's or administrator's custody or possession of the
699 property, assets, and business or may, with the consent of the
700 presiding judge of the circuit, require that all such suits be
701 assigned to the judge appointing the receiver or administrator.

702 (3) In addition to, or in lieu of, any other remedies
703 provided under this chapter, the office may apply to the court
704 hearing the matter for an order directing the defendant to make
705 restitution of those sums shown by the office to have been
706 obtained in violation of this chapter. Such restitution shall, at
707 the option of the court, be payable to the administrator or
708 receiver appointed under this section or directly to the persons
709 whose assets were obtained in violation of this chapter.

710 Section 9. Section 560.114, Florida Statutes, is amended to
711 read:

712 560.114 Disciplinary actions; penalties.--

713 (1) The following actions by a money services business,
714 authorized agent, or affiliated party ~~transmitter or money~~
715 ~~transmitter-affiliated party are violations of the code and~~
716 constitute grounds for the issuance of a cease and desist order,
717 the issuance of a removal order, the denial, ~~of a registration~~
718 ~~application or the suspension,~~ or revocation of a license ~~any~~

597-04187-08

20082158__

719 ~~registration previously issued pursuant to the code, or the~~
720 ~~taking of any other action within the authority of the office~~
721 ~~pursuant to this chapter ~~the code~~:~~

722 (a) Failure to comply with any provision of this chapter or
723 related ~~the code~~, any rule or order adopted pursuant thereto, or
724 any written agreement entered into with the office.

725 (b) Fraud, misrepresentation, deceit, or gross negligence
726 in any transaction by a involving money services business
727 ~~transmission~~, regardless of reliance thereon by, or damage to, a
728 ~~money transmitter~~ customer.

729 (c) Fraudulent misrepresentation, circumvention, or
730 concealment of any matter that must ~~required to~~ be stated or
731 furnished to a ~~money transmitter~~ customer pursuant to this
732 chapter ~~the code~~, regardless of reliance thereon by, or damage
733 to, such customer.

734 (d) False, deceptive, or misleading advertising.

735 (e) Failure to maintain, preserve, ~~and~~ keep available for
736 examination, and produce all books, accounts, files, or other
737 documents required by this chapter or related rules or orders ~~the~~
738 ~~code~~, by any rule or order adopted pursuant to the code, by 31
739 C.F.R. ss. 103.20, 103.22, 103.23, 103.27, 103.28, 103.29,
740 103.33, 103.37, 103.41, and 103.125 ~~as they existed on March 31,~~
741 ~~2004~~, or by any agreement entered into with the office.

742 (f) Refusing to allow ~~Refusal to permit~~ the examination or
743 inspection of books, accounts, files, or other documents ~~and~~
744 ~~records in an investigation or examination~~ by the office,
745 pursuant to this chapter ~~the provisions of the code~~, or to comply
746 with a subpoena issued by the office.

597-04187-08

20082158__

747 (g) Failure to pay a judgment recovered in any court ~~in~~
748 ~~this state~~ by a claimant in an action arising out of a money
749 transmission transaction within 30 days after the judgment
750 becomes final.

751 (h) Engaging in an act prohibited under ~~or practice~~
752 ~~prescribed by~~ s. 560.111.

753 (i) Insolvency ~~or operating in an unsafe and unsound~~
754 ~~manner~~.

755 (j) Failure by a money services business ~~transmitter~~ to
756 remove an affiliated ~~a money transmitter-affiliated~~ party after
757 the office has issued and served upon the money services business
758 ~~transmitter~~ a final order setting forth a finding that the
759 affiliated ~~money transmitter-affiliated~~ party has violated a any
760 provision of this chapter ~~the code~~.

761 (k) Making a any material misstatement, ~~or~~
762 misrepresentation, or omission ~~or committing any fraud~~ in an
763 ~~initial or renewal~~ application for licensure, any amendment to
764 such application, or application for the appointment of an
765 authorized agent ~~registration~~.

766 (l) Committing any act that results ~~resulting~~ in a license
767 ~~an application for registration, or a registration~~ or its
768 equivalent, to practice any profession or occupation being
769 denied, suspended, revoked, or otherwise acted against by a
770 licensing ~~registering~~ authority in any jurisdiction ~~or a finding~~
771 ~~by an appropriate regulatory body of engaging in unlicensed~~
772 ~~activity as a money transmitter within any jurisdiction~~.

773 (m) Being the subject of final agency action or its
774 equivalent, issued by an appropriate regulator, for engaging in

597-04187-08

20082158__

775 unlicensed activity as a money services business or deferred
776 presentment provider in any jurisdiction.

777 (n) ~~(m)~~ Committing any act resulting in a license
778 ~~registration~~ or its equivalent, ~~or an application for~~
779 ~~registration,~~ to practice any profession or occupation being
780 denied, suspended, revoked, or otherwise acted against by a
781 licensing ~~registering~~ authority in any jurisdiction for a
782 violation of 18 U.S.C. s. 1956, 18 U.S.C. s. 1957, 18 U.S.C. s.
783 1960, 31 U.S.C. s. 5324, or any other law ~~or,~~ ~~rule,~~ ~~or regulation~~
784 of another state or of the United States relating to a money
785 services business, deferred presentment provider, the business of
786 ~~money transmission~~ or usury that ~~which~~ may cause the denial,
787 suspension, or revocation of a money services business or
788 deferred presentment provider ~~transmitter~~ license or its
789 equivalent ~~or registration~~ in such jurisdiction.

790 (o) ~~(n)~~ Having been convicted of ~~or found guilty of,~~ or
791 entered a plea of ~~having pleaded~~ guilty or nolo contendere to,
792 any felony or crime punishable by imprisonment of 1 year or more
793 under the law of any state or ~~of~~ the United States which involves
794 fraud, moral turpitude, or dishonest dealing, regardless of
795 adjudication ~~without regard to whether a judgment of conviction~~
796 ~~has been entered by the court.~~

797 (p) ~~(o)~~ Having been convicted of ~~or found guilty of,~~ or
798 entered a plea of ~~having pleaded~~ guilty or nolo contendere to, a
799 crime under 18 U.S.C. s. 1956 or 31 U.S.C. s. 5324, regardless of
800 adjudication ~~without regard to whether a judgment of conviction~~
801 ~~has been entered by the court.~~

802 (q) ~~(p)~~ Having been convicted of ~~or found guilty of,~~ or
803 entered a plea of ~~having pleaded~~ guilty or nolo contendere to,

597-04187-08

20082158__

804 misappropriation, conversion, or unlawful withholding of moneys
805 belonging that belong to others, regardless of adjudication and
806 ~~were received in the conduct of the business of the money~~
807 ~~transmitter.~~

808 (r)(q) Failure to inform the office in writing within 30 15
809 days after having pled pleading guilty or nolo contendere to, or
810 being convicted ~~or found guilty~~ of, any felony or crime
811 punishable by imprisonment of 1 year or more under the law of any
812 state or ~~of~~ the United States, or ~~of~~ any crime involving fraud,
813 moral turpitude, or dishonest dealing, ~~without regard to whether~~
814 ~~a judgment of conviction has been entered by the court.~~

815 (s)(r) Aiding, assisting, procuring, advising, or abetting
816 any person in violating a provision of this chapter code or any
817 order or rule of the office or commission.

818 (t)(s) Failure to ~~timely~~ pay any fee, charge, or cost
819 imposed or assessed fine under this chapter the code.

820 (u) Failing to pay a fine assessed by the office within 30
821 days after the due date as stated in a final order.

822 (v)(t) Failure to pay any judgment entered by any court
823 within 30 days after the judgment becomes final.

824 ~~(u) Engaging or holding oneself out to be engaged in the~~
825 ~~business of a money transmitter without the proper registration.~~

826 ~~(v) Any action that would be grounds for denial of a~~
827 ~~registration or for revocation, suspension, or restriction of a~~
828 ~~registration previously granted under part III of this chapter.~~

829 ~~(w) Failure to pay any fee, charge, or fine under the code.~~

830 (w)(*) Engaging or advertising engagement in the business
831 of a money services business or deferred presentment provider
832 ~~transmitter~~ without a license registration, unless ~~the person is~~

597-04187-08

20082158__

833 exempted from licensure ~~the registration requirements of the~~
834 ~~code.~~

835 ~~(x)(y)~~ Payment to the office for a license or other fee,
836 charge, cost, or fine ~~permit~~ with a check or electronic
837 transmission of funds that is dishonored by the applicant's or
838 licensee's financial institution.

839 (y) Failure by a money services business licensed under
840 part II of this chapter to supervise its authorized agents
841 pursuant to s. 560.208 or s. 560.2085.

842 (z) Violations of 31 C.F.R. ss. 103.20, 103.22, 103.23,
843 103.27, 103.28, 103.29, 103.33, 103.37, 103.41, and 103.125.

844 (aa) Any practice or conduct that creates the likelihood of
845 a material loss, insolvency, or dissipation of assets of a money
846 services business or otherwise materially prejudices the
847 interests of its customers.

848 (2) The office may deny licensure if the applicant or an
849 affiliated party is the subject of a pending criminal prosecution
850 or governmental enforcement action in any jurisdiction until the
851 conclusion of the prosecution or action.

852 (3)(2) The office may issue a cease and desist order or
853 removal order, suspend or revoke a license ~~any previously issued~~
854 ~~registration~~, or take any other action within the authority of
855 the office against a licensee ~~money transmitter~~ based on any fact
856 or condition that exists and that, if it had existed or been
857 known to exist at the time of license application ~~the money~~
858 ~~transmitter applied for registration~~, would have been grounds for
859 license denial ~~of registration~~.

860 (4)(3) ~~A~~ Each money services business licensed under part
861 II of this chapter ~~transmitter~~ is responsible for any act of its

597-04187-08

20082158__

862 authorized agents ~~vendors~~ if the money services business
863 ~~transmitter~~ should have known of the act or had ~~if the money~~
864 ~~transmitter has~~ actual knowledge that such act is a violation of
865 this chapter, the code and the money services business
866 ~~transmitter willfully~~ allowed the ~~such~~ act to continue. Such
867 responsibility is limited to conduct engaged in by the authorized
868 agent ~~vendor~~ pursuant to the authority granted to it by the money
869 services business transmitter.

870 (5) ~~(4)~~ If a license registration granted under this chapter
871 ~~code~~ expires or is surrendered by the licensee ~~registrant~~ during
872 the pendency of an administrative action ~~under this code~~, the
873 proceeding may continue as if the license is registration ~~were~~
874 still in effect.

875 (6) The office may, in addition to or in lieu of the
876 denial, suspension, or revocation of a license, impose a fine of
877 up to \$10,000 for each violation of this chapter.

878 (7) In addition to any other provision of this chapter, the
879 office may impose a fine of up to \$1,000 per day for each day
880 that a person engages in the business of a money services
881 business or deferred presentment provider without being licensed.

882 (8) In imposing any administrative remedy or penalty under
883 this chapter, the office shall take into account the
884 appropriateness of the penalty with respect to the gravity of the
885 violation, the history of previous violations, and other matters
886 as justice may require.

887 Section 10. Section 560.115, Florida Statutes, is amended
888 to read:

889 560.115 Surrender of license registration.--A licensee ~~Any~~
890 ~~money transmitter registered pursuant to the code~~ may voluntarily

597-04187-08

20082158__

891 | surrender its license ~~registration~~ at any time by giving written
892 | notice to the office.

893 | Section 11. Section 560.116, Florida Statutes, is amended
894 | to read:

895 | 560.116 Civil immunity.--Any person having reason to
896 | believe that a provision of this chapter ~~the code~~ is being
897 | violated, ~~or~~ has been violated, or is about to be violated, may
898 | file a complaint with the office setting forth the details of the
899 | alleged violation. Such person is immune ~~An Immunity~~ from civil
900 | liability ~~is hereby granted to any person who furnishes such~~
901 | ~~information,~~ unless the information provided is false and has
902 | been provided ~~the person providing the information does so with~~
903 | reckless disregard for the truth.

904 | Section 12. Section 560.118, Florida Statutes, is amended
905 | to read:

906 | 560.118 ~~Examinations, Reports, and internal audits;~~
907 | ~~penalty.--~~

908 | (1)(a) ~~The office may conduct an examination of a money~~
909 | ~~transmitter or authorized vendor by providing not less than 15~~
910 | ~~days' advance notice to the money transmitter or authorized~~
911 | ~~vendor. However, if the office suspects that the money~~
912 | ~~transmitter or authorized vendor has violated any provisions of~~
913 | ~~this code or any criminal laws of this state or of the United~~
914 | ~~States or is engaging in an unsafe and unsound practice, the~~
915 | ~~office may, at any time without advance notice, conduct an~~
916 | ~~examination of all affairs, activities, transactions, accounts,~~
917 | ~~business records, and assets of any money transmitter or any~~
918 | ~~money transmitter-affiliated party for the protection of the~~
919 | ~~public. For the purpose of examinations, the office may~~

597-04187-08

20082158__

920 ~~administer oaths and examine a money transmitter or any of its~~
921 ~~affiliated parties concerning their operations and business~~
922 ~~activities and affairs. The office may accept an audit or~~
923 ~~examination from any appropriate regulatory agency or from an~~
924 ~~independent third party with respect to the operations of a money~~
925 ~~transmitter or an authorized vendor. The office may also make a~~
926 ~~joint or concurrent examination with any state or federal~~
927 ~~regulatory agency. The office may furnish a copy of all~~
928 ~~examinations made of such money transmitter or authorized vendor~~
929 ~~to the money transmitter and any appropriate regulatory agency~~
930 ~~provided that such agency agrees to abide by the confidentiality~~
931 ~~provisions as set forth in chapter 119.~~

932 ~~(b) Persons subject to this chapter who are examined shall~~
933 ~~make available to the office or its examiners the accounts,~~
934 ~~records, documents, files, information, assets, and matters which~~
935 ~~are in their immediate possession or control and which relate to~~
936 ~~the subject of the examination. Those accounts, records,~~
937 ~~documents, files, information, assets, and matters not in their~~
938 ~~immediate possession shall be made available to the office or the~~
939 ~~office's examiners within 10 days after actual notice is served~~
940 ~~on such persons.~~

941 ~~(c) The audit of a money transmitter required under this~~
942 ~~section may be performed by an independent third party that has~~
943 ~~been approved by the office or by a certified public accountant~~
944 ~~authorized to do business in the United States. The examination~~
945 ~~of a money transmitter or authorized vendor required under this~~
946 ~~section may be performed by an independent third party that has~~
947 ~~been approved by the office or by a certified public accountant~~
948 ~~authorized to do business in the United States. The cost of such~~

597-04187-08

20082158__

949 ~~an independent examination or audit shall be directly borne by~~
950 ~~the money transmitter or authorized vendor.~~

951 ~~(2)(a) Annual financial audit reports must that are~~
952 ~~required to be filed with the office pursuant to this chapter or~~
953 ~~related rules under the code or any rules adopted thereunder must~~
954 ~~be audited by an independent third party that has been approved~~
955 ~~by the office or by a certified public accountant authorized to~~
956 ~~do business in the United States. The licensee money transmitter~~
957 ~~or authorized vendor shall directly bear the cost of the audit.~~
958 ~~This paragraph does not apply to any seller of payment~~
959 ~~instruments who can prove to the satisfaction of the office that~~
960 ~~it has a combined total of fewer than 50 employees and authorized~~
961 ~~vendors or that its annual payment instruments issued from its~~
962 ~~activities as a payment instrument seller are less than \$200,000.~~

963 ~~(2)(b) Each licensee must submit The commission may, by~~
964 ~~rule, require each money transmitter or authorized vendor to~~
965 ~~submit quarterly reports to the office in a format and include~~
966 ~~information as specified by rule. The rule commission may require~~
967 ~~the that each report to contain a declaration by an officer, or~~
968 ~~any other responsible person authorized to make such declaration,~~
969 ~~that the report is true and correct to the best of her or his~~
970 ~~knowledge and belief. Such report must include such information~~
971 ~~as the commission by rule requires for that type of money~~
972 ~~transmitter.~~

973 ~~(c) The office may levy an administrative fine of up to~~
974 ~~\$100 per day for each day the report is past due, unless it is~~
975 ~~excused for good cause. In excusing any such administrative fine,~~
976 ~~the office may consider the prior payment history of the money~~
977 ~~transmitter or authorized vendor.~~

597-04187-08

20082158__

978 ~~(3) Any person who willfully violates this section or fails~~
979 ~~to comply with any lawful written demand or order of the office~~
980 ~~made under this section commits a felony of the third degree,~~
981 ~~punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

982 Section 13. Section 560.119, Florida Statutes, is
983 transferred, renumbered as section 560.144, Florida Statutes, and
984 amended to read:

985 560.144 ~~560.119~~ Deposit of fees and assessments.--License
986 ~~The~~ application fees, license ~~registration~~ renewal fees, late
987 payment penalties, civil penalties, administrative fines, and
988 other fees, costs, or penalties provided for in this chapter ~~the~~
989 ~~code~~ shall, ~~in all cases~~, be paid directly to the office, which
990 shall deposit such proceeds into the Regulatory Trust Fund, and
991 use the proceeds to pay the costs of the office as necessary to
992 carry out its responsibilities under this chapter. ~~Each year, the~~
993 ~~Legislature shall appropriate from the trust fund to the office~~
994 ~~sufficient moneys to pay the office's costs for administration of~~
995 ~~the code. The Regulatory Trust Fund is subject to the service~~
996 ~~charge imposed pursuant to chapter 215.~~

997 Section 14. Section 560.121, Florida Statutes, is amended
998 to read:

999 560.121 Access to records; record retention; penalties
1000 ~~limited restrictions upon public access.--~~

1001 (1)(a) Orders of courts or of administrative law judges for
1002 the production of confidential records or information must ~~shall~~
1003 provide for inspection in camera by the court or the
1004 administrative law judge; and, if ~~after~~ the court or
1005 administrative law judge determines ~~has made a determination~~ that
1006 the documents requested are relevant or would likely lead to the

597-04187-08

20082158__

1007 | discovery of admissible evidence, ~~said documents shall be subject~~
1008 | ~~to further orders by~~ the court or the administrative law judge
1009 | must issue further orders to protect the confidentiality of the
1010 | documents thereof. Any order directing the release of information
1011 | is shall be immediately reviewable, and a petition by the office
1012 | for review of the such order shall automatically stay further
1013 | proceedings in the trial court or the administrative hearing
1014 | until the disposition of the such petition by the reviewing
1015 | court. ~~If any other party files such~~ A petition for review of the
1016 | order filed by any other party shall, ~~it will~~ operate as a stay
1017 | of the such proceedings only upon order of the reviewing court.

1018 | (2) ~~(b)~~ Confidential records and information furnished
1019 | pursuant to a legislative subpoena must shall be kept
1020 | confidential ~~by the legislative body or committee which receives~~
1021 | ~~the records or information,~~ except in cases a case involving the
1022 | investigation of charges against a public official subject to
1023 | impeachment or removal, and then disclosure of such information
1024 | shall be only to the extent determined to be necessary by the
1025 | legislative body or committee ~~to be necessary~~.

1026 | (3) ~~(2)~~ ~~The commission may prescribe by rule the minimum~~
1027 | ~~information that must be shown in the books, accounts, records,~~
1028 | ~~and documents of licensees for purposes of enabling the office to~~
1029 | ~~determine the licensee's compliance with this chapter. In~~
1030 | ~~addition, the commission may prescribe by rule requirements for~~
1031 | ~~the destruction of books, accounts, records, and documents~~
1032 | ~~retained by the licensee after completion of the time period~~
1033 | ~~specified in this subsection. Examination reports, investigatory~~
1034 | ~~records, applications, and related information compiled by the~~
1035 | office, or photographic copies thereof, must shall be retained by

597-04187-08

20082158__

1036 the office for ~~a period of~~ at least 5 ~~3~~ years after following the
1037 date ~~that~~ the examination or investigation ceases to be active.
1038 Application records, and related information compiled by the
1039 office, or photographic copies thereof, must ~~shall~~ be retained by
1040 the office for a period of at least 5 ~~2~~ years after following the
1041 date ~~that~~ the license ~~registration~~ ceases to be active.

1042 ~~(3) A copy of any document on file with the office which is~~
1043 ~~certified by the office as being a true copy may be introduced in~~
1044 ~~evidence as if it were the original. The commission shall~~
1045 ~~establish a schedule of fees for preparing true copies of~~
1046 ~~documents.~~

1047 (4) Any person who willfully discloses information made
1048 confidential by this section commits a felony of the third
1049 degree, punishable as provided in s. 775.082, s. 775.083, or s.
1050 775.084.

1051 Section 15. Section 560.123, Florida Statutes, is amended
1052 to read:

1053 560.123 Florida Control of Money Laundering in ~~the~~ Money
1054 Services Business Act Transmitters' Code; ~~reports of transactions~~
1055 ~~involving currency or monetary instruments; when required;~~
1056 ~~purpose; definitions; penalties; corpus delicti.--~~

1057 (1) This section may be cited as the "Florida Control of
1058 Money Laundering in Money Services Business Transmitters Act."

1059 (2) ~~It is~~ The purpose of this section is to require the
1060 ~~submission to the office of reports and the~~ maintenance of
1061 certain records of transactions involving currency or payment
1062 ~~monetary instruments in order to which reports and records~~ deter
1063 the use of a money services business ~~money transmitters~~ to
1064 conceal proceeds from criminal activity and to ensure the

597-04187-08

20082158__

1065 availability of such records for ~~are useful in~~ criminal, tax, or
1066 regulatory investigations or proceedings.

1067 (3)(a) A Every money services business must transmitter
1068 ~~shall~~ keep a record of every each financial transaction ~~occurring~~
1069 ~~in this state~~ known to it that occurs in this state; involves ~~to~~
1070 ~~involve~~ currency or other payment monetary instrument, as
1071 prescribed the commission prescribes by rule, having of a value
1072 greater than in excess of \$10,000; and involves, ~~to involve~~ the
1073 proceeds of ~~specified~~ unlawful activity, ~~or is to be~~ designed to
1074 evade the reporting requirements of this section or chapter 896.
1075 The money services business must and shall maintain appropriate
1076 procedures to ensure compliance with this section and chapter
1077 896.

1078 (a)(b) Multiple financial transactions shall be treated as
1079 a single transaction if the money services business transmitter
1080 has knowledge that they are made by or on behalf of any one
1081 person and result in ~~either~~ cash in or cash out totaling more
1082 than \$10,000 during any day.

1083 (b)(e) A Any money services business transmitter may keep a
1084 record of any financial transaction occurring in this state,
1085 regardless of the value, if it suspects that the transaction
1086 involves the proceeds of ~~specified~~ unlawful activity.

1087 (c) The money services business must file a report with the
1088 office of any records required by this subsection, at such time
1089 and containing such information as required by rule. The timely
1090 filing of the report required by 31 U.S.C. s. 5313 with the
1091 appropriate federal agency shall be deemed compliance with the
1092 reporting requirements of this subsection unless the reports are

597-04187-08

20082158__

1093 not regularly and comprehensively transmitted by the federal
1094 agency to the office.

1095 (d) A money services business ~~transmitter~~, or officer,
1096 employee, or agent thereof, that files a report in good faith
1097 pursuant to this section is not liable to any person for loss or
1098 damage caused in whole or in part by the making, filing, or
1099 governmental use of the report, or any information contained
1100 therein.

1101 ~~(4)(3)~~ (4) A money services business ~~transmitters~~ must comply
1102 with ~~adhere to~~ the money laundering, enforcement, and reporting
1103 provisions of s. 655.50~~7~~ relating to reports of transactions
1104 involving currency transactions and payment ~~monetary~~ instruments,
1105 and of chapter 896~~7~~ concerning offenses relating to financial
1106 transactions.

1107 ~~(5)(4)~~ (5) In enforcing this section, the ~~commission and~~ office
1108 shall acknowledge and take into consideration the requirements of
1109 Title 31, United States Code, in order ~~both~~ to reduce the burden
1110 of ~~fulfilling~~ duplicate requirements and to acknowledge the
1111 economic advantage of having similar reporting and recordkeeping
1112 requirements between state and federal regulatory authorities.

1113 ~~(5)(a)~~ (5)(a) ~~Each money transmitter must file a report with the~~
1114 ~~office of the record required by this section. Each record filed~~
1115 ~~pursuant to this section must be filed at such time and contain~~
1116 ~~such information as the commission requires by rule.~~

1117 ~~(b)~~ (b) ~~The timely filing of the report required by 31 U.S.C.~~
1118 ~~s. 5313, with the appropriate federal agency is deemed compliance~~
1119 ~~with the reporting requirements of this subsection unless the~~
1120 ~~reports are not regularly and comprehensively transmitted by the~~
1121 ~~federal agency to the office.~~

597-04187-08

20082158__

1122 (6) The office must retain a copy of all reports received
1123 under subsection (3) ~~(5)~~ for a minimum of 5 ~~3~~ ~~calendar~~ years
1124 after receipt of the report. However, if a report or information
1125 contained in a report is known by the office to be the subject of
1126 an existing criminal proceeding, the report must be retained for
1127 a minimum of 10 ~~calendar~~ years after ~~from~~ the date of receipt.

1128 (7) In addition to any other powers conferred upon the
1129 office to enforce and administer this chapter ~~the code~~, the
1130 office may:

1131 (a) Bring an action in any court of competent jurisdiction
1132 to enforce or administer this section. In such action, the office
1133 may seek award of any civil penalty authorized by law and any
1134 other appropriate relief at law or equity.

1135 (b) Issue and serve upon a person an order requiring the
1136 ~~such~~ person to cease and desist and take corrective action if
1137 ~~whenever~~ the office finds that the ~~such~~ person is violating, has
1138 violated, or is about to violate any provision of this section or
1139 chapter 896; any rule or order adopted under this section or
1140 chapter 896; or any written agreement related to this section or
1141 chapter 896 which is entered into with the office.

1142 (c) Issue and serve upon a person an order suspending or
1143 revoking the ~~such~~ person's money services business license if
1144 ~~transmitter registration whenever~~ the office finds that the ~~such~~
1145 person is violating, has violated, or is about to violate any
1146 provision of this section or chapter 896; any rule or order
1147 adopted under this section or chapter 896; or any written
1148 agreement related to this section or chapter 896 which is entered
1149 into with the office.

597-04187-08

20082158__

1150 (d) Issue and serve upon any person an order of removal
1151 whenever the office finds that the ~~such~~ person is violating, has
1152 violated, or is about to violate any provision of this section or
1153 chapter 896; any rule or order adopted under this section or
1154 chapter 896; or any written agreement related to this section or
1155 chapter 896 which is entered into with the office.

1156 (e) Impose and collect an administrative fine against any
1157 person found to have violated any provision of this section or
1158 chapter 896; any rule or order adopted under this section or
1159 chapter 896; or any written agreement related to this section or
1160 chapter 896 which is entered into with the office, of up to ~~in an~~
1161 ~~amount not exceeding~~ \$10,000 per ~~a~~ day for each willful violation
1162 or \$500 per ~~a~~ day for each negligent violation.

1163 (8) (a) Except as provided in paragraph (b), a person who
1164 willfully violates any provision of this section commits a
1165 misdemeanor of the first degree, punishable as provided in s.
1166 775.082 or s. 775.083.

1167 (b) A person who willfully violates any provision of this
1168 section, if the violation involves:

1169 1. Currency or payment instruments exceeding \$300 but less
1170 than \$20,000 in any 12-month period, commits a felony of the
1171 third degree, punishable as provided in s. 775.082, s. 775.083,
1172 or s. 775.084.

1173 2. Currency or payment instruments totaling or exceeding
1174 \$20,000 but less than \$100,000 in any 12-month period, commits a
1175 felony of the second degree, punishable as provided in s.
1176 775.082, s. 775.083, or s. 775.084.

1177 3. Currency or payment instruments totaling or exceeding
1178 \$100,000 in any 12-month period, commits a felony of the first

597-04187-08

20082158__

1179 degree, punishable as provided in s. 775.082, s. 775.083, or s.
1180 775.084.

1181 (c) In addition to the penalties ~~otherwise~~ authorized by s.
1182 775.082, s. 775.083, or s. 775.084, a person who has been
1183 convicted of, or entered a plea of ~~who has pleaded~~ guilty or nolo
1184 contendere, regardless of adjudication, to having violated
1185 paragraph (b) may be sentenced to pay a fine of up to ~~not~~
1186 ~~exceeding~~ \$250,000 or twice the value of the currency or payment
1187 instruments, whichever is greater, except that on a second or
1188 subsequent conviction for or plea of guilty or nolo contendere,
1189 regardless of adjudication, to a violation of paragraph (b), the
1190 fine may be up to \$500,000 or quintuple the value of the currency
1191 or payment instruments, whichever is greater.

1192 (d) A person who violates this section is also liable for a
1193 civil penalty of not more than the greater of the value of the
1194 currency or payment instruments involved or \$25,000.

1195 (9) In any prosecution brought pursuant to this section,
1196 the common law corpus delicti rule does not apply. The
1197 defendant's confession or admission is admissible during trial
1198 without the state having to prove the corpus delicti if the court
1199 finds in a hearing conducted outside the presence of the jury
1200 that the defendant's confession or admission is trustworthy.
1201 Before the court admits the defendant's confession or admission,
1202 the state must prove by a preponderance of the evidence that
1203 there is sufficient corroborating evidence that tends to
1204 establish the trustworthiness of the statement by the defendant.
1205 Hearsay evidence is admissible during the presentation of
1206 evidence at the hearing. In making its determination, the court

597-04187-08

20082158__

1207 may consider all relevant corroborating evidence, including the
1208 defendant's statements.

1209 Section 16. Section 560.1235, Florida Statutes, is created
1210 to read:

1211 560.1235 Money laundering requirements.--

1212 (1) A licensee must comply with all state and federal laws
1213 and rules relating to the detection and prevention of money
1214 laundering, including, as applicable, s. 560.123, and 31 C.F.R.
1215 ss. 103.20, 103.22, 103.23, 103.27. 103.28, 103.29, 103.33,
1216 103.37, and 103.41.

1217 (2) A licensee must maintain an anti-money laundering
1218 program in accordance with 31 C.F.R. s. 103.25. The program must
1219 be reviewed and updated as necessary to ensure that the program
1220 continues to be effective in detecting and deterring money
1221 laundering activities.

1222 Section 17. Section 560.124, Florida Statutes, is amended
1223 to read:

1224 560.124 Sharing of information.--

1225 ~~(1) It is not unlawful for~~ Any person may ~~to~~ provide
1226 ~~information~~ to a money services business, its transmitter,
1227 authorized agent, law enforcement agency, prosecutorial agency
1228 ~~vendor,~~ or appropriate regulator, or ~~for~~ any money services
1229 business, its transmitter, authorized agent, law enforcement
1230 agency, prosecutorial agency vendor, or appropriate regulator may
1231 ~~to~~ provide ~~information~~ to any person, information about any ~~other~~
1232 person's known or suspected involvement in a violation of any
1233 state, federal, or foreign law, rule, or regulation relating to
1234 the business of a money services business or deferred present

597-04187-08

20082158__

1235 provider transmitter which has been reported to state, federal,
1236 or foreign authorities, and is not.

1237 ~~(2) No person shall be liable in any civil action for~~
1238 providing such information.

1239 Section 18. Section 560.125, Florida Statutes, is amended
1240 to read:

1241 560.125 Unlicensed activity ~~Money transmitter business by~~
1242 ~~unauthorized persons; penalties.--~~

1243 (1) A person ~~other than a registered money transmitter or~~
1244 ~~authorized vendor~~ may not engage in the business of a money
1245 services business or deferred presentment provider transmitter in
1246 this state unless the person is licensed or exempted from
1247 licensure under this chapter ~~from the registration requirements~~
1248 ~~of the code.~~

1249 (2) Only a money services business licensed under part II
1250 of this chapter may appoint an authorized agent. ~~No person shall~~
1251 ~~act as a vendor of a money transmitter when such money~~
1252 ~~transmitter is subject to registration under the code but has not~~
1253 ~~registered.~~ Any such person acting as the agent of an unlicensed
1254 money transmitter or payment instrument issuer becomes the
1255 principal thereof, and no longer merely acts as an agent a
1256 ~~vendor~~, and ~~such person~~ is liable to the holder or remitter as a
1257 principal money transmitter or payment instrument seller.

1258 (3) Any person whose substantial interests are affected by
1259 a proceeding brought by the office pursuant to this chapter ~~the~~
1260 ~~code~~ may, pursuant to s. 560.113, petition any court of competent
1261 jurisdiction to enjoin the person or activity that is the subject
1262 of the proceeding from violating any of the provisions of this
1263 section. For the purpose of this subsection, any money services

597-04187-08

20082158__

1264 business licensed under this chapter ~~transmitter registered~~
1265 ~~pursuant to the code~~, any person residing in this state, and any
1266 person whose principal place of business is in this state are
1267 presumed to be substantially affected. In addition, the interests
1268 of a trade organization or association are deemed substantially
1269 affected if the interests of any of its members are ~~se~~ affected.

1270 (4) The office may issue and serve upon any person who
1271 violates any of the provisions of this section a complaint
1272 seeking a cease and desist order or impose an administrative fine
1273 as provided in s. 560.114 ~~in accordance with the procedures and~~
1274 ~~in the manner prescribed by s. 560.112. The office may also~~
1275 ~~impose an administrative fine pursuant to s. 560.117(3) against~~
1276 ~~any person who violates any of the provisions of this section.~~

1277 (5) A person who violates this section, if the violation
1278 involves:

1279 (a) Currency or payment instruments exceeding \$300 but less
1280 than \$20,000 in any 12-month period, commits a felony of the
1281 third degree, punishable as provided in s. 775.082, s. 775.083,
1282 or s. 775.084.

1283 (b) Currency or payment instruments totaling or exceeding
1284 \$20,000 but less than \$100,000 in any 12-month period, commits a
1285 felony of the second degree, punishable as provided in s.
1286 775.082, s. 775.083, or s. 775.084.

1287 (c) Currency or payment instruments totaling or exceeding
1288 \$100,000 in any 12-month period, commits a felony of the first
1289 degree, punishable as provided in s. 775.082, s. 775.083, or s.
1290 775.084.

1291 (6) In addition to the penalties authorized by s. 775.082,
1292 s. 775.083, or s. 775.084, a person who has been convicted of, or

597-04187-08

20082158__

1293 entered a plea of ~~found guilty of or who has pleaded~~ guilty or
1294 nolo contendere, to having violated this section may be sentenced
1295 to pay a fine of up to ~~not exceeding~~ \$250,000 or twice the value
1296 of the currency or payment instruments, whichever is greater,
1297 except that on a second or subsequent violation of this section,
1298 the fine may be up to \$500,000 or quintuple the value of the
1299 currency or payment instruments, whichever is greater.

1300 (7) A person who violates this section is also liable for a
1301 civil penalty of not more than the value of the currency or
1302 payment instruments involved or \$25,000, whichever is greater.

1303 (8) In any prosecution brought pursuant to this section,
1304 the common law corpus delicti rule does not apply. The
1305 defendant's confession or admission is admissible during trial
1306 without the state having to prove the corpus delicti if the court
1307 finds in a hearing conducted outside the presence of the jury
1308 that the defendant's confession or admission is trustworthy.
1309 Before the court admits the defendant's confession or admission,
1310 the state must prove by a preponderance of the evidence that
1311 there is sufficient corroborating evidence that tends to
1312 establish the trustworthiness of the statement by the defendant.
1313 Hearsay evidence is admissible during the presentation of
1314 evidence at the hearing. In making its determination, the court
1315 may consider all relevant corroborating evidence, including the
1316 defendant's statements.

1317 Section 19. Section 560.126, Florida Statutes, is amended
1318 to read:

1319 560.126 ~~Significant events; notice~~ Required notice by
1320 licensee.--

597-04187-08

20082158__

1321 (1) A licensee ~~Unless exempted by the office, every money~~
1322 ~~transmitter~~ must provide the office with a written notice sent by
1323 registered mail within 30 days after the occurrence or knowledge
1324 of, whichever period of time is greater, any of the following
1325 events:

1326 (a) The filing of a petition under the United States
1327 Bankruptcy Code for bankruptcy or reorganization by the licensee
1328 ~~money transmitter~~.

1329 (b) The commencement of an administrative or judicial
1330 license ~~any registration~~ suspension or revocation proceeding,
1331 ~~either administrative or judicial,~~ or the denial of a license ~~any~~
1332 ~~original registration~~ request or a ~~registration~~ renewal, by any
1333 state, the District of Columbia, any United States territory, or
1334 any foreign country, in which the licensee ~~money transmitter~~
1335 operates, ~~or~~ plans to operate, or is licensed ~~or has registered~~
1336 to operate.

1337 (c) A felony indictment relating to a the money services
1338 ~~transmission~~ business or deferred presentment provider involving
1339 the licensee, its authorized agent, or an affiliated ~~money~~
1340 ~~transmitter or a money transmitter-affiliated party of the money~~
1341 ~~transmitter~~.

1342 (d) The felony conviction, guilty plea, or plea of nolo
1343 contendere, regardless of adjudication, of the licensee, its
1344 authorized agent, or an affiliated ~~if the court adjudicates the~~
1345 ~~nolo contendere pleader guilty, or the adjudication of guilt of a~~
1346 ~~money transmitter or money transmitter-affiliated party~~.

1347 (e) The interruption of any corporate surety bond required
1348 under this chapter ~~by the code~~.

597-04187-08

20082158__

1349 (f) Any suspected criminal act, ~~as defined by the~~
1350 ~~commission by rule,~~ perpetrated in this state relating to
1351 activities regulated under this chapter by an affiliated party
1352 against a money services business or its authorized agent
1353 ~~transmitter or authorized vendor.~~

1354 (g) Notification by a law enforcement or prosecutorial
1355 agency that the licensee or its authorized agent is under
1356 criminal investigation including, but not limited to, subpoenas
1357 to produce records or testimony and warrants issued by a court of
1358 competent jurisdiction which authorize the search and seizure of
1359 any records relating to a business activity regulated under this
1360 chapter.

1361
1362 ~~However, a person does not incur liability as a result of making~~
1363 ~~a good faith effort to fulfill this disclosure requirement.~~

1364 (2)(a) A licensee must ~~Each registrant under this code~~
1365 ~~shall~~ report, on a form adopted ~~prescribed~~ by rule ~~of the~~
1366 ~~commission,~~ any change in the information contained in an ~~any~~
1367 initial license application form, ~~or~~ any amendment to such
1368 application, or the appointment of an authorized agent within
1369 ~~thereto not later than~~ 30 days after the change is effective.

1370 (3)(b) Each licensee must ~~registrant under the code shall~~
1371 report any change ~~changes~~ in the partners, officers, members,
1372 joint venturers, directors, controlling shareholders, or
1373 responsible persons of the licensee ~~any registrant~~ or changes in
1374 the form of business organization by written amendment in such
1375 form and at such time as specified ~~the commission specifies~~ by
1376 rule.

597-04187-08

20082158__

1377 (a)1. ~~If In any case in which a person or a group of~~
1378 ~~persons,~~ directly or indirectly or acting by or through one or
1379 more persons, proposes to purchase or acquire a controlling
1380 interest in a licensee, such person or group must submit an
1381 ~~initial~~ application for licensure registration as a money
1382 services business or deferred presentment provider transmitter
1383 before such purchase or acquisition at such time and in such form
1384 as prescribed ~~the commission prescribes~~ by rule.

1385 2. As used in this subsection, the term "controlling
1386 interest" means the same as described in s. 560.127 ~~possession of~~
1387 ~~the power to direct or cause the direction of the management or~~
1388 ~~policies of a company whether through ownership of securities, by~~
1389 ~~contract, or otherwise. Any person who directly or indirectly has~~
1390 ~~the right to vote 25 percent or more of the voting securities of~~
1391 ~~a company or is entitled to 25 percent or more of its profits is~~
1392 ~~presumed to possess a controlling interest.~~

1393 (b)3. ~~The~~ Any addition of a partner, officer, member, joint
1394 venturer, director, controlling shareholder, or responsible
1395 person of the applicant who does not have a controlling interest
1396 and who has not previously complied with the applicable
1397 provisions of ss. 560.140 and 560.141 ~~is ss. 560.205 and 560.306~~
1398 ~~shall be subject to such provisions unless required to file an~~
1399 ~~initial application in accordance with subparagraph 1. If the~~
1400 office determines that the licensee registrant does not continue
1401 to meet the licensure registration requirements, the office may
1402 bring an administrative action in accordance with s. 560.114 to
1403 enforce the provisions of this chapter ~~code~~.

1404 (c)4. The commission shall adopt rules ~~pursuant to ss.~~
1405 ~~120.536(1) and 120.54~~ providing for the waiver of the license

597-04187-08

20082158__

1406 application required by this subsection if the person or group of
 1407 persons proposing to purchase or acquire a controlling interest
 1408 in a licensee ~~registrant~~ has previously complied with the
 1409 applicable provisions of ss. 560.140 and 560.141 under ss.
 1410 ~~560.205 and 560.306 with~~ the same legal entity or is currently
 1411 licensed ~~registered with the office under this chapter code.~~

1412 Section 20. Section 560.127, Florida Statutes, is amended
 1413 to read:

1414 560.127 Control of a money services business
 1415 ~~transmitter.~~--A person has a controlling interest in ~~control over~~
 1416 a money services business ~~transmitter~~ if the person:

1417 ~~(1) the individual, partnership, corporation, trust, or~~
 1418 ~~other organization~~ possesses the power, directly or indirectly,
 1419 to direct the management or policies of the money services
 1420 business ~~a company~~, whether through ownership ~~of securities~~, by
 1421 contract, or otherwise. A person is presumed to have control ~~a~~
 1422 ~~company~~ if the, ~~with respect to a particular company, that~~
 1423 person:

1424 (1)(a) Is a director, general partner, or officer
 1425 exercising executive responsibility or having similar status or
 1426 functions;

1427 (2)(b) Directly or indirectly may vote 25 percent or more
 1428 of a class of a voting security or sell or direct the sale of 25
 1429 percent or more of a class of voting securities; or

1430 (3)(c) In the case of a partnership, may receive upon
 1431 dissolution or has contributed 25 percent or more of the capital.

1432 ~~(2) The office determines, after notice and opportunity for~~
 1433 ~~hearing, that the person directly or indirectly exercises a~~

597-04187-08

20082158__

1434 ~~controlling influence over the activities of the money~~
1435 ~~transmitter.~~

1436 Section 21. Section 560.128, Florida Statutes, is amended
1437 to read:

1438 560.128 Customer contacts; license display ~~Consumer~~
1439 ~~disclosure.--~~

1440 (1) A money services business or its authorized agent must
1441 provide each customer with ~~Every money transmitter and authorized~~
1442 ~~vendor shall provide each consumer of a money transmitter~~
1443 ~~transaction~~ a toll-free telephone number for the purpose of
1444 contacting the money services business or its authorized agent
1445 or, consumer contacts; ~~However,~~ in lieu of a such toll-free
1446 telephone number, ~~the money transmitter or authorized vendor may~~
1447 ~~provide~~ the address and telephone number of the office may be
1448 provided and ~~the Division of Consumer Services of the Department~~
1449 ~~of Financial Services.~~

1450 (2) The commission may by rule require a licensee ~~every~~
1451 ~~money transmitter~~ to display its license ~~registration~~ at each
1452 location, ~~including the location of each person designated by the~~
1453 ~~registrant as an authorized vendor,~~ where the licensee ~~the money~~
1454 ~~transmitter~~ engages in the activities authorized by the license
1455 ~~registration.~~

1456 Section 22. Section 560.129, Florida Statutes, is amended
1457 to read:

1458 560.129 Confidentiality.--

1459 (1) ~~(a)~~ Except as otherwise provided in this section, all
1460 information concerning an investigation or examination conducted
1461 by the office pursuant to this chapter, including any customer
1462 ~~consumer~~ complaint received by the office, the commission, or the

597-04187-08

20082158__

1463 Department of Financial Services, is confidential and exempt from
1464 s. 119.07(1) and s. 24(a), Art. I of the State Constitution until
1465 the investigation or examination ceases to be active. For
1466 purposes of this section, an investigation or examination is
1467 considered "active" so long as the office or any other
1468 administrative, regulatory, or law enforcement agency of any
1469 jurisdiction is proceeding with reasonable dispatch and has a
1470 reasonable good faith belief that action may be initiated by the
1471 office or other administrative, regulatory, or law enforcement
1472 agency.

1473 (2)(b) ~~Notwithstanding paragraph (a),~~ All information
1474 obtained by the office in the course of its investigation or
1475 examination which is a trade secret, as defined in s. 688.002, or
1476 which is personal financial information shall remain confidential
1477 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State
1478 Constitution. If any administrative, civil, or criminal
1479 proceeding against a the money services business, its authorized
1480 agent, transmitter or an affiliated a money transmitter-
1481 affiliated party is initiated and the office seeks to use matter
1482 that a licensee registrant believes to be a trade secret or
1483 personal financial information, such records shall be subject to
1484 an in camera review by the administrative law judge, if the
1485 matter is before the Division of Administrative Hearings, or a
1486 judge of any court of this state, any other state, or the United
1487 States, as appropriate, for the purpose of determining if the
1488 matter is a trade secret or is personal financial information. If
1489 it is determined that the matter is a trade secret, the matter
1490 shall remain confidential. If it is determined that the matter is
1491 personal financial information, the matter shall remain

597-04187-08

20082158__

1492 confidential unless the administrative law judge or judge
1493 determines that, in the interests of justice, the matter should
1494 become public.

1495 (3)~~(e)~~ If an ~~any~~ administrative, civil, or criminal
1496 proceeding against a ~~the~~ money services business, its authorized
1497 agent, ~~transmitter~~ or an affiliated ~~a money transmitter~~
1498 ~~affiliated~~ party results in an acquittal or the dismissal of all
1499 of the allegations ~~against the money transmitter or a money~~
1500 ~~transmitter-affiliated party~~, upon the request of any party, the
1501 administrative law judge or the judge may order all or a portion
1502 of the record of the proceeding to be sealed, and it shall
1503 thereafter be confidential and exempt from s. 119.07(1) and s.
1504 24(a), Art. I of the State Constitution.

1505 (4)~~(d)~~ Except as necessary for the office or any other
1506 administrative, regulatory, or law enforcement agency of any
1507 jurisdiction to enforce the provisions of this chapter or the law
1508 of any other state or the United States, a consumer complaint and
1509 other information concerning an investigation or examination
1510 shall remain confidential and exempt from s. 119.07(1) and s.
1511 24(a), Art. I of the State Constitution after the investigation
1512 or examination ceases to be active to the extent that disclosure
1513 would:

1514 (a)~~1.~~ Jeopardize the integrity of another active
1515 investigation;

1516 (b)~~2.~~ Reveal personal financial information;

1517 (c)~~3.~~ Reveal the identity of a confidential source; or

1518 (d)~~4.~~ Reveal investigative techniques or procedures.

1519 (5)~~(2)~~ This section does not prevent or restrict:

597-04187-08

20082158__

1520 (a) Furnishing records or information to any appropriate
1521 regulatory, prosecutorial, ~~agency~~ or law enforcement agency if
1522 such agency adheres to the confidentiality provisions of this
1523 chapter ~~the code~~;

1524 (b) Furnishing records or information to an appropriate
1525 regulator or independent third party ~~or a certified public~~
1526 ~~accountant~~ who has been approved by the office to conduct an
1527 examination under s. 560.1091 ~~s. 560.118(1)(b)~~, if the
1528 independent third party ~~or certified public accountant~~ adheres to
1529 the confidentiality provisions of this chapter ~~the code~~; or

1530 (c) Reporting any suspicious ~~suspected criminal~~ activity,
1531 with supporting documents and information, to appropriate
1532 regulatory, law enforcement, or prosecutorial agencies.

1533 ~~(6)(3)~~ All quarterly reports submitted ~~by a money~~
1534 ~~transmitter~~ to the office under s. 560.118(2) ~~s. 560.118(2)(b)~~
1535 are confidential and exempt from s. 119.07(1) and s. 24(a), Art.
1536 I of the State Constitution.

1537 ~~(4)~~ ~~Examination reports, investigatory records,~~
1538 ~~applications, and related information compiled by the office, or~~
1539 ~~photographic copies thereof, shall be retained by the office for~~
1540 ~~a period of at least 3 years following the date that the~~
1541 ~~examination or investigation ceases to be active. Application~~
1542 ~~records, and related information compiled by the office, or~~
1543 ~~photographic copies thereof, shall be retained by the office for~~
1544 ~~a period of at least 2 years following the date that the~~
1545 ~~registration ceases to be active.~~

1546 ~~(7)(5)~~ Any person who willfully discloses information made
1547 confidential by this section commits a felony of the third
1548 degree, punishable as provided in s. 775.082 or s. 775.083.

597-04187-08

20082158__

1549 Section 23. Section 560.140, Florida Statutes, is created
1550 to read:

1551 560.140 Licensing standards.--To qualify for licensure as a
1552 money services business under this chapter, an applicant must:

1553 (1) Demonstrate to the office the character and general
1554 fitness necessary to command the confidence of the public and
1555 warrant the belief that the money services business or deferred
1556 presentment provider shall be operated lawfully and fairly.

1557 (2) Be legally authorized to do business in this state.

1558 (3) Be registered as a money services business with the
1559 Financial Crimes Enforcement Network as required by 31 C.F.R. s.
1560 103.41, if applicable.

1561 (4) Have an anti-money laundering program in place which
1562 meets the requirements of 31 C.F.R. s. 103.125.

1563 (5) Provide the office with all the information required
1564 under this chapter and related rules.

1565 Section 24. Section 560.141, Florida Statutes, is created
1566 to read:

1567 560.141 License application.--

1568 (1) To apply for a license as a money services business
1569 under this chapter the applicant must:

1570 (a) Submit an application to the office on forms prescribed
1571 by rule which includes the following information:

1572 1. The legal name and address of the applicant, including
1573 any fictitious or trade names used by the applicant in the
1574 conduct of its business.

1575 2. The date of the applicant's formation and the state in
1576 which the applicant was formed, if applicable.

597-04187-08

20082158__

1577 3. The name, social security number, alien identification
1578 or taxpayer identification number, business and residence
1579 addresses, and employment history for the past 5 years for each
1580 officer, director, responsible person, the compliance officer,
1581 each controlling shareholder, any other person who has a
1582 controlling interest in the money services business as provided
1583 in s. 560.127.

1584 4. A description of the organizational structure of the
1585 applicant, including the identity of any parent or subsidiary of
1586 the applicant, and the disclosure of whether any parent or
1587 subsidiary is publicly traded.

1588 5. The applicant's history of operations in other states if
1589 applicable and a description of the money services business or
1590 deferred presentment provider activities proposed to be conducted
1591 by the applicant in this state.

1592 6. If the applicant or its parent is a publicly traded
1593 company, copies of all filings made by the applicant with the
1594 United States Securities and Exchange Commission, or with a
1595 similar regulator in a country other than the United States,
1596 within the preceding year.

1597 7. The location at which the applicant proposes to
1598 establish its principal place of business and any other location,
1599 including branch offices and authorized agents operating in this
1600 state. For each branch office identified and each authorized
1601 agent appointed, the applicant shall include the nonrefundable
1602 fee required by s. 560.143.

1603 8. The name and address of the clearing financial
1604 institution or financial institutions through which the

597-04187-08

20082158__

1605 applicant's payment instruments are drawn or through which the
1606 payment instruments are payable.

1607 8. The history of the applicant's material litigation,
1608 criminal convictions, pleas of nolo contendere, and cases of
1609 adjudication withheld.

1610 9. The history of material litigation, arrests, criminal
1611 convictions, pleas of nolo contendere, and cases of adjudication
1612 withheld for each executive officer, director, controlling
1613 shareholder, and responsible person.

1614 10. The name of the registered agent in this state for
1615 service of process unless the applicant is a sole proprietor.

1616 11. Any other information specified in this chapter or by
1617 rule.

1618 (b) In addition to the application form, submit:

1619 1. A nonrefundable application fee as provided in s.
1620 560.143.

1621 2. A fingerprint card for each of the persons listed in
1622 subparagraph (a)3. unless the applicant is a publicly traded
1623 corporation, or is exempted from this chapter under s.
1624 560.104(1). The fingerprints must be taken by an authorized law
1625 enforcement agency. The office shall submit the fingerprints to
1626 the Department of Law Enforcement for state processing and the
1627 Department of Law Enforcement shall forward the fingerprints to
1628 the Federal Bureau of Investigations for federal processing. The
1629 cost of the fingerprint processing may be borne by the office,
1630 the employer, or the person subject to the criminal records
1631 background check. The office shall screen the background results
1632 to determine if the applicant meets licensure requirements. As
1633 used in this section, the term "publicly traded" means a stock is

597-04187-08

20082158__

1634 currently traded on a national securities exchange registered
1635 with the federal Securities and Exchange Commission or traded on
1636 an exchange in a country other than the United States regulated
1637 by a regulator equivalent to the Securities and Exchange
1638 Commission and the disclosure and reporting requirements of such
1639 regulator are substantially similar to those of the commission.

1640 3. A copy of the applicant's written anti-money laundering
1641 program required under 31 C.F.R. s. 103.125.

1642 4. Within the time allotted by rule, any information needed
1643 to resolve any deficiencies found in the application.

1644 (2) If the office determines that the applicant meets the
1645 qualifications and requirements of this chapter, the office shall
1646 issue a license to the applicant. A license may not be issued for
1647 more than 2 years.

1648 (a) A license issued under part II of this chapter shall
1649 expire on April 30 of the second year following the date of
1650 issuance of the license unless during such period the license is
1651 surrendered, suspended, or revoked.

1652 (b) A license issued under part III of this chapter shall
1653 expire on December 31 of the second year following the date of
1654 issuance of the license unless during such period the license is
1655 surrendered, suspended, or revoked.

1656 Section 25. Section 560.142, Florida Statutes, is created
1657 to read:

1658 560.142 License renewal.--

1659 (1) A license may be renewed for a subsequent 2-year period
1660 by furnishing such application as required by rule, together with
1661 the payment of a nonrefundable renewal fee as provided under s.
1662 560.143, on or before the license expiration date, or for the

597-04187-08

20082158__

1663 remainder of any such period without proration following the date
 1664 of license expiration.

1665 (2) In addition to the renewal fee, each part II licensee
 1666 must pay a 2-year nonrefundable renewal fee as provided in s.
 1667 560.143 for each authorized agent or location operating within
 1668 this state.

1669 (3) A licensee who has on file with the office a
 1670 declaration of intent to engage in deferred presentment
 1671 transactions may renew a declaration upon license renewal by
 1672 submitting a nonrefundable deferred presentment provider renewal
 1673 fee as provided in s. 560.143.

1674 (4) If a license or declaration of intent to engage in
 1675 deferred presentment transactions expires, the license or
 1676 declaration of intent may be reinstated only if a renewal
 1677 application or declaration of intent, all required renewal fees,
 1678 and any applicable late fees are received by the office within 60
 1679 days after expiration. If not submitted within 60 days, the
 1680 license or declaration on intent expires and a new license
 1681 application or declaration of intent must be filed with the
 1682 office pursuant to this chapter.

1683 (5) The commission may adopt rules to administer this
 1684 section.

1685 Section 26. Section 560.143, Florida Statutes, is created
 1686 to read:

1687 560.143 Fees.--

1688 (1) LICENSE APPLICATION FEES.--The applicable non-
 1689 refundable fees must accompany an application for licensure:

- 1690 (a) Under part II \$500.
- 1691 (b) Part III \$250.

597-04187-08

20082158__

- 1692 (c) Per branch office \$50.
- 1693 (d) For each appointment of an authorized agent \$50.
- 1694 (e) Declaration as a deferred presentment provider \$1,000.
- 1695 (f) Fingerprint fees as prescribed by rule.
- 1696 (2) LICENSE RENEWAL FEES.--The applicable non-refundable
- 1697 license renewal fees must accompany a renewal of licensure:
- 1698 (a) Part II 1,000.
- 1699 (b) Part III \$500.
- 1700 (c) Per branch office \$50.
- 1701 (d) For each appointment of an authorized agents \$50.
- 1702 (e) Declaration as a deferred presentment provider \$1,000.
- 1703 (f) Renewal fees for branch offices and authorized agents
- 1704 are limited to \$20,000 biennially.
- 1705 (3) LATE LICENSE RENEWAL FEES.--
- 1706 (a) Part II \$500.
- 1707 (b) Part III \$250.
- 1708 (c) Declaration as a deferred presentment provider \$500.
- 1709 Section 27. Section 560.203, Florida Statutes, is amended
- 1710 to read:
- 1711 560.203 Exemptions from licensure.--Authorized agents
- 1712 ~~vendors~~ of a licensee registrant acting within the scope of
- 1713 authority conferred by the licensee are registrant ~~shall be~~
- 1714 exempt from licensure but are having to register pursuant to the
- 1715 ~~code but shall~~ otherwise be subject to the its provisions of this
- 1716 chapter.
- 1717 Section 28. Section 560.204, Florida Statutes, is amended
- 1718 to read:
- 1719 560.204 License required ~~Requirement of registration~~.--

597-04187-08

20082158__

1720 (1) Unless exempted, a ~~no~~ person may not ~~shall~~ engage in
1721 ~~for consideration, or ~~not~~~~ in any manner advertise that they
1722 engage~~7~~ in, the selling or issuing of payment instruments or in
1723 the activity of a money funds transmitter, for compensation,
1724 without first obtaining a license registration under the
1725 ~~provisions of~~ this part. For purposes of this section,
1726 "compensation" includes profit or loss on the exchange of
1727 currency.

1728 (2) A licensee under this part ~~person registered pursuant~~
1729 ~~to this part is permitted to engage in the activities authorized~~
1730 ~~by this part. A person registered pursuant to this part may also~~
1731 engage in the activities authorized under part III of this
1732 chapter without the imposition of any additional licensing fees
1733 and is exempt from the registration fee required by s. 560.307.

1734 Section 29. Section 560.205, Florida Statutes, is amended
1735 to read:

1736 560.205 Additional license application requirements
1737 ~~Qualifications of applicant for registration; contents.--In~~
1738 addition to the license application requirements under part I of
1739 this chapter, an applicant seeking a license under this part must
1740 also submit to the office:

1741 (1) A sample authorized agent contract, if applicable.

1742 (2) A sample form of payment instrument, if applicable.

1743 (3) Documents demonstrating that the net worth and bonding
1744 requirements specified in s. 560.209 have been fulfilled.

1745 (4) A copy of the applicant's financial audit report for
1746 the most recent fiscal year.

1747 ~~(1) To qualify for registration under this part, an~~
1748 ~~applicant must demonstrate to the office such character and~~

597-04187-08

20082158__

1749 ~~general fitness as to command the confidence of the public and~~
1750 ~~warrant the belief that the registered business will be operated~~
1751 ~~lawfully and fairly. The office may investigate each applicant to~~
1752 ~~ascertain whether the qualifications and requirements prescribed~~
1753 ~~by this part have been met. The office's investigation may~~
1754 ~~include a criminal background investigation of all controlling~~
1755 ~~shareholders, principals, officers, directors, members, and~~
1756 ~~responsible persons of a funds transmitter and a payment~~
1757 ~~instrument seller and all persons designated by a funds~~
1758 ~~transmitter or payment instrument seller as an authorized vendor.~~
1759 ~~Each controlling shareholder, principal, officer, director,~~
1760 ~~member, and responsible person of a funds transmitter or payment~~
1761 ~~instrument seller, unless the applicant is a publicly traded~~
1762 ~~corporation as defined by the commission by rule, a subsidiary~~
1763 ~~thereof, or a subsidiary of a bank or bank holding company~~
1764 ~~organized and regulated under the laws of any state or the United~~
1765 ~~States, shall file a complete set of fingerprints. A fingerprint~~
1766 ~~card submitted to the office must be taken by an authorized law~~
1767 ~~enforcement agency. The office shall submit the fingerprints to~~
1768 ~~the Department of Law Enforcement for state processing, and the~~
1769 ~~Department of Law Enforcement shall forward the fingerprints to~~
1770 ~~the Federal Bureau of Investigation for state and federal~~
1771 ~~processing. The cost of the fingerprint processing may be borne~~
1772 ~~by the office, the employer, or the person subject to the~~
1773 ~~background check. The Department of Law Enforcement shall submit~~
1774 ~~an invoice to the office for the fingerprints received each~~
1775 ~~month. The office shall screen the background results to~~
1776 ~~determine if the applicant meets licensure requirements. The~~
1777 ~~commission may waive by rule the requirement that applicants file~~

597-04187-08

20082158__

1778 ~~a set of fingerprints or the requirement that such fingerprints~~
1779 ~~be processed by the Department of Law Enforcement or the Federal~~
1780 ~~Bureau of Investigation.~~

1781 ~~(2) Each application for registration must be submitted~~
1782 ~~under oath to the office on such forms as the commission~~
1783 ~~prescribes by rule and must be accompanied by a nonrefundable~~
1784 ~~application fee. Such fee may not exceed \$500 for each payment~~
1785 ~~instrument seller or funds transmitter and \$50 for each~~
1786 ~~authorized vendor or location operating within this state. The~~
1787 ~~application must contain such information as the commission~~
1788 ~~requires by rule, including, but not limited to:~~

1789 ~~(a) The name and address of the applicant, including any~~
1790 ~~fictitious or trade names used by the applicant in the conduct of~~
1791 ~~its business.~~

1792 ~~(b) The history of the applicant's material litigation,~~
1793 ~~criminal convictions, pleas of nolo contendere, and cases of~~
1794 ~~adjudication withheld.~~

1795 ~~(c) A description of the activities conducted by the~~
1796 ~~applicant, the applicant's history of operations, and the~~
1797 ~~business activities in which the applicant seeks to engage in~~
1798 ~~this state.~~

1799 ~~(d) A sample authorized vendor contract, if applicable.~~

1800 ~~(e) A sample form of payment instrument, if applicable.~~

1801 ~~(f) The name and address of the clearing financial~~
1802 ~~institution or financial institutions through which the~~
1803 ~~applicant's payment instruments will be drawn or through which~~
1804 ~~such payment instruments will be payable.~~

597-04187-08

20082158__

1805 ~~(g) Documents revealing that the net worth and bonding~~
1806 ~~requirements specified in s. 560.209 have been or will be~~
1807 ~~fulfilled.~~

1808 ~~(3) Each application for registration by an applicant that~~
1809 ~~is a corporation shall contain such information as the commission~~
1810 ~~requires by rule, including, but not limited to:~~

1811 ~~(a) The date of the applicant's incorporation and state of~~
1812 ~~incorporation.~~

1813 ~~(b) A certificate of good standing from the state or~~
1814 ~~country in which the applicant was incorporated.~~

1815 ~~(c) A description of the corporate structure of the~~
1816 ~~applicant, including the identity of any parent or subsidiary of~~
1817 ~~the applicant, and the disclosure of whether any parent or~~
1818 ~~subsidiary is publicly traded on any stock exchange.~~

1819 ~~(d) The name, social security number, business and~~
1820 ~~residence addresses, and employment history for the past 5 years~~
1821 ~~for each executive officer, each director, each controlling~~
1822 ~~shareholder, and the responsible person who will be in charge of~~
1823 ~~all the applicant's business activities in this state.~~

1824 ~~(e) The history of material litigation and criminal~~
1825 ~~convictions, pleas of nolo contendere, and cases of adjudication~~
1826 ~~withheld for each officer, each director, each controlling~~
1827 ~~shareholder, and the responsible person who will be in charge of~~
1828 ~~the applicant's registered activities.~~

1829 ~~(f) Copies of the applicant's audited financial statements~~
1830 ~~for the current year and, if available, for the immediately~~
1831 ~~preceding 2-year period. In cases where the applicant is a wholly~~
1832 ~~owned subsidiary of another corporation, the parent's~~
1833 ~~consolidated audited financial statements may be submitted to~~

597-04187-08

20082158__

1834 ~~satisfy this requirement. An applicant who is not required to~~
1835 ~~file audited financial statements may satisfy this requirement by~~
1836 ~~filing unaudited financial statements verified under penalty of~~
1837 ~~perjury, as provided by the commission by rule.~~

1838 ~~(g) An applicant who is not required to file audited~~
1839 ~~financial statements may file copies of the applicant's~~
1840 ~~unconsolidated, unaudited financial statements for the current~~
1841 ~~year and, if available, for the immediately preceding 2-year~~
1842 ~~period.~~

1843 ~~(h) If the applicant is a publicly traded company, copies~~
1844 ~~of all filings made by the applicant with the United States~~
1845 ~~Securities and Exchange Commission, or with a similar regulator~~
1846 ~~in a country other than the United States, within the year~~
1847 ~~preceding the date of filing of the application.~~

1848 ~~(4) Each application for registration submitted to the~~
1849 ~~office by an applicant that is not a corporation shall contain~~
1850 ~~such information as the commission requires by rule, including,~~
1851 ~~but not limited to:~~

1852 ~~(a) Evidence that the applicant is registered to do~~
1853 ~~business in this state.~~

1854 ~~(b) The name, business and residence addresses, personal~~
1855 ~~financial statement and employment history for the past 5 years~~
1856 ~~for each individual having a controlling ownership interest in~~
1857 ~~the applicant, and each responsible person who will be in charge~~
1858 ~~of the applicant's registered activities.~~

1859 ~~(c) The history of material litigation and criminal~~
1860 ~~convictions, pleas of nolo contendere, and cases of adjudication~~
1861 ~~withheld for each individual having a controlling ownership~~

597-04187-08

20082158__

1862 ~~interest in the applicant and each responsible person who will be~~
1863 ~~in charge of the applicant's registered activities.~~

1864 ~~(d) Copies of the applicant's audited financial statements~~
1865 ~~for the current year, and, if available, for the preceding 2~~
1866 ~~years. An applicant who is not required to file audited financial~~
1867 ~~statements may satisfy this requirement by filing unaudited~~
1868 ~~financial statements verified under penalty of perjury, as~~
1869 ~~provided by the commission by rule.~~

1870 ~~(5) Each applicant shall designate and maintain an agent in~~
1871 ~~this state for service of process.~~

1872 Section 30. Effective January 1, 2009, section 560.208,
1873 Florida Statutes, is amended to read:

1874 560.208 Conduct of business.--In addition to the
1875 requirements specified in s. 560.140, a licensee under this part:

1876 (1) ~~A registrant~~ May conduct its business at one or more
1877 locations within this state through branches or by means of
1878 authorized agents ~~vendors~~, as designated by the licensee and
1879 approved by the office ~~registrant~~, including the conduct of
1880 business through electronic transfer, such as by the telephone or
1881 the Internet.

1882 (2) Notwithstanding and without violating s. 501.0117, a
1883 ~~registrant~~ may charge a different price for a money transmitter
1884 ~~funds transmission~~ service based on the mode of transmission used
1885 in the transaction as, ~~so~~ long as the price charged for a service
1886 paid for with a credit card is not more ~~greater~~ than the price
1887 charged when the ~~that~~ service is paid for with currency or other
1888 similar means ~~accepted within the same mode of transmission.~~

1889 (3) Is responsible for the acts of its authorized agents
1890 within the scope of its written contract with the agent.

597-04187-08

20082158__

1891 (4) Shall place assets that are the property of a customer
1892 in a segregated account in a federally insured financial
1893 institution and shall maintain separate accounts for operating
1894 capital and the clearing of customer funds.

1895 (5) Shall, in the normal course of business, ensure that
1896 money transmitted is available to the designated recipient within
1897 10 business days after receipt.

1898 (6) Shall immediately upon receipt of currency or payment
1899 instrument provide a confirmation number to the customer
1900 verbally, by paper, or electronically.

1901 ~~(2) Within 60 days after the date a registrant either opens~~
1902 ~~a location within this state or authorizes an authorized vendor~~
1903 ~~to operate on the registrant's behalf within this state, the~~
1904 ~~registrant shall notify the office on a form prescribed by the~~
1905 ~~commission by rule. The notification shall be accompanied by a~~
1906 ~~nonrefundable \$50 fee for each authorized vendor or location.~~
1907 ~~Each notification shall also be accompanied by a financial~~
1908 ~~statement demonstrating compliance with s. 560.209(1), unless~~
1909 ~~compliance has been demonstrated by a financial statement filed~~
1910 ~~with the registrant's quarterly report in compliance with s.~~
1911 ~~560.118(2). The financial statement must be dated within 90 days~~
1912 ~~of the date of designation of the authorized vendor or location.~~
1913 ~~This subsection shall not apply to any authorized vendor or~~
1914 ~~location that has been designated by the registrant before~~
1915 ~~October 1, 2001.~~

1916 ~~(3) Within 60 days after the date a registrant closes a~~
1917 ~~location within this state or withdraws authorization for an~~
1918 ~~authorized vendor to operate on the registrant's behalf within~~

597-04187-08

20082158__

1919 ~~this state, the registrant shall notify the office on a form~~
1920 ~~prescribed by the commission by rule.~~

1921 Section 31. Effective January 1, 2009, section 560.2085,
1922 Florida Statutes, is created to read:

1923 560.2085 Authorized agents.--A licensee under this part
1924 shall:

1925 (1) Before an authorized agent commences business on behalf
1926 of a licensee, file with the office such information as
1927 prescribed by rule together with the nonrefundable appointment
1928 fee as provided by s. 560.143, for any person whom the licensee
1929 seeks to appoint as an authorized agent.

1930 (2) Enter into a written contract, signed by the licensee
1931 and the authorized agent, which:

1932 (a) Sets forth the nature and scope of the relationship
1933 between the licensee and the authorized agent, including the
1934 respective rights and responsibilities of the parties; and

1935 (b) Includes contract provisions that require the
1936 authorized agent to:

1937 1. Report to the licensee, immediately upon discovery, the
1938 theft or loss of currency received for a transmission or payment
1939 instrument;

1940 2. Display a notice to the public, in such form as
1941 prescribed by rule, that the agent is the authorized agent of the
1942 licensee;

1943 3. Remit all amounts owed to the licensee for all
1944 transmissions accepted and all payment instruments sold in
1945 accordance with the contract between the licensee and the
1946 authorized agent;

597-04187-08

20082158__

1947 4. Hold in trust, in favor of the licensee, all money
1948 received for all transmissions accepted or payment instruments
1949 sold from the time of receipt by the authorized agent until the
1950 time the money is forwarded to the licensee;

1951 5. Not commingle the money received for transmissions
1952 accepted or payment instruments sold on behalf of the licensee
1953 with the money or property of the authorized agent, except for
1954 making change in the ordinary course of the agent's business, and
1955 ensure that the money is accounted for at the end of the business
1956 day;

1957 6. Consent to examination or investigation by the office;

1958 7. Adhere to the applicable state and federal laws and
1959 rules pertaining to a money services business; and

1960 8. Provide such other information or disclosure as may be
1961 required by rule.

1962 (3) Develop and implement written internal audit policies
1963 and procedures to monitor compliance with applicable state and
1964 federal law by its authorized agents.

1965 (4) Hold in trust all currency or payment instruments
1966 received for transmissions or for the purchase of payment
1967 instruments from the time of receipt by the licensee or
1968 authorized agent until the time the transmission obligation is
1969 completed.

1970 Section 32. Section 560.209, Florida Statutes, is amended
1971 to read:

1972 560.209 Adjusted net worth; corporate surety bond;
1973 collateral deposit in lieu of bond.--

1974 (1) A licensee must ~~Any person engaging in a registered~~
1975 ~~activity shall~~ have an adjusted a net worth of at least \$100,000

597-04187-08

20082158__

1976 ~~computed according to generally accepted accounting principles. A~~
1977 ~~licensee operating in Applicants proposing to conduct registered~~
1978 ~~activities at more than one location must shall~~ have an
1979 additional adjusted net worth of \$10,000 ~~\$50,000~~ per location in
1980 this state, up as applicable, to a maximum of \$2 million
1981 \$500,000. The required adjusted net worth must be maintained at
1982 all times.

1983 (2) A licensee must obtain an annual financial audit
1984 report, which must be submitted to the office within 120 days
1985 after the end of the licensee's fiscal year end, as disclosed to
1986 the office.

1987 (3) (2) Before the office may issue a license under this
1988 part registration, the applicant must provide to the office a
1989 corporate surety bond, issued by a bonding company or insurance
1990 company authorized to do business in this state.

1991 (a) The corporate surety bond shall be in an such amount as
1992 specified may be determined by ~~commission~~ rule, but may shall not
1993 be less than \$50,000 or exceed \$2 million ~~\$250,000.~~ The rule
1994 shall provide allowances for the financial condition, number of
1995 locations, and anticipated volume of the licensee. However, the
1996 commission and office may consider extraordinary circumstances,
1997 such as the registrant's financial condition, the number of
1998 locations, and the existing or anticipated volume of outstanding
1999 payment instruments or funds transmitted, and require an
2000 additional amount above \$250,000, up to \$500,000.

2001 (b) The corporate surety bond must shall be in a form
2002 satisfactory to the office and shall run to the state for the
2003 benefit of any claimants in this state against the applicant or
2004 its authorized agents ~~vendors~~ to secure the faithful performance

597-04187-08

20082158__

2005 of the obligations of the applicant and its agents ~~authorized~~
2006 ~~vendors~~ with respect to the receipt, handling, transmission, and
2007 payment of funds. The aggregate liability of the corporate surety
2008 bond may not ~~in no event shall~~ exceed the principal sum of the
2009 bond. ~~Such~~ Claimants against the applicant or its authorized
2010 agent ~~vendors~~ may ~~themselves~~ bring suit directly on the corporate
2011 surety bond, or the Department of Legal Affairs may bring suit
2012 ~~thereon~~ on behalf of the ~~such~~ claimants, ~~in either one action or~~
2013 ~~in successive actions.~~

2014 (c) The A corporate surety bond ~~filed with the office for~~
2015 ~~purposes of compliance with this section~~ may not be canceled by
2016 ~~either~~ the licensee ~~registrant~~ or the corporate surety except
2017 upon written notice to the office by registered ~~or certified~~ mail
2018 ~~with return receipt requested.~~ A cancellation may ~~shall~~ not take
2019 effect until ~~less than~~ 30 days after receipt by the office of the
2020 ~~such~~ written notice.

2021 (d) The corporate surety must, within 10 days after it pays
2022 any claim ~~to any claimant~~, give written notice to the office by
2023 registered ~~or certified~~ mail of such payment with details
2024 sufficient to identify the claimant and the claim or judgment ~~se~~
2025 paid.

2026 (e) If ~~Whenever~~ the principal sum of the ~~such~~ bond is
2027 reduced by one or more recoveries or payments, the licensee
2028 ~~registrant~~ must furnish a new or additional bond so that the
2029 total or aggregate principal sum of the ~~such~~ bond equals the sum
2030 required pursuant to paragraph (a) ~~by the commission.~~
2031 Alternatively, a licensee ~~registrant~~ may furnish an endorsement
2032 executed by the corporate surety reinstating the bond to the
2033 required principal sum ~~thereof.~~

597-04187-08

20082158__

2034 (4)~~(3)~~ In lieu of a ~~such~~ corporate surety bond, or of any
2035 portion of the principal sum ~~thereof~~ required by this section,
2036 the applicant may deposit collateral cash, securities, or
2037 alternative security devices as provided by rule ~~approved by the~~
2038 ~~commission~~, with a ~~any~~ federally insured financial institution.

2039 (a) Acceptable collateral deposit items ~~in lieu of a bond~~
2040 include cash and interest-bearing stocks and bonds, notes,
2041 debentures, or other obligations of the United States or any
2042 agency or instrumentality thereof, or guaranteed by the United
2043 States, or of this state.

2044 (b) The collateral deposit must be in an aggregate amount,
2045 based upon principal amount or market value, whichever is lower,
2046 of at least ~~not less than~~ the amount of the required corporate
2047 surety bond or portion thereof.

2048 (c) Collateral deposits must ~~made under this subsection~~
2049 ~~shall~~ be pledged to the office and held by the insured financial
2050 institution to secure the same obligations as ~~would~~ the corporate
2051 surety bond, but the depositor is entitled to receive any ~~all~~
2052 interest and dividends thereon and may, with the approval of the
2053 office, substitute other securities or deposits for those
2054 deposited. The principal amount of the deposit shall be released
2055 only on written authorization of the office or on the order of a
2056 court of competent jurisdiction.

2057 (5)~~(4)~~ A licensee ~~registrant~~ must at all times ~~have and~~
2058 maintain the bond or collateral deposit in the required amount
2059 ~~prescribed by the commission~~. If the office ~~at any time~~
2060 reasonably determines that the bond or elements of the collateral
2061 deposit are insecure, deficient in amount, or exhausted in whole
2062 or in part, the office may, by written order, require the filing

597-04187-08

20082158__

2063 of a new or supplemental bond or the deposit of new or additional
2064 collateral deposit items.

2065 ~~(6)(5)~~ The bond and collateral deposit shall remain in
2066 place for 5 years after the licensee ~~registrant~~ ceases licensed
2067 ~~registered~~ operations in this state. The office may allow ~~permit~~
2068 the bond or collateral deposit to be reduced or eliminated prior
2069 to that time to the extent that the amount of the licensee's
2070 ~~registrant's~~ outstanding payment instruments or money funds
2071 transmitted in this state are reduced. The office may also allow
2072 a licensee ~~permit a registrant~~ to substitute a letter of credit
2073 or ~~such~~ other form of acceptable security for the bond or
2074 collateral deposit at the time the licensee ~~registrant~~ ceases
2075 licensed ~~money transmission~~ operations in this state.

2076 ~~(6) The office may waive or reduce a registrant's net worth~~
2077 ~~or bond or collateral deposit requirement. Such waiver or~~
2078 ~~modification must be requested by the applicant or registrant,~~
2079 ~~and may be granted upon a showing by the applicant or registrant~~
2080 ~~to the satisfaction of the office that:~~

2081 ~~(a) The existing net worth, bond, or collateral deposit~~
2082 ~~requirement is sufficiently in excess of the registrant's highest~~
2083 ~~potential level of outstanding payment instruments or money~~
2084 ~~transmissions in this state;~~

2085 ~~(b) The direct and indirect cost of meeting the net worth,~~
2086 ~~bond, or collateral deposit requirement will restrict the ability~~
2087 ~~of the money transmitter to effectively serve the needs of its~~
2088 ~~customers and the public; or~~

2089 ~~(c) The direct and indirect cost of meeting the net worth,~~
2090 ~~bond, or collateral requirement will not only have a negative~~
2091 ~~impact on the money transmitter but will severely hinder the~~

597-04187-08

20082158__

2092 ~~ability of the money transmitter to participate in and promote~~
2093 ~~the economic progress and welfare of this state or the United~~
2094 ~~States.~~

2095 Section 33. Section 560.210, Florida Statutes, is amended
2096 to read:

2097 560.210 Permissible investments.--

2098 (1) A licensee must ~~registrant shall~~ at all times possess
2099 permissible investments with an aggregate market value,
2100 calculated in accordance with ~~United States~~ generally accepted
2101 accounting principles, of at least ~~not less than~~ the aggregate
2102 face amount of all outstanding money funds transmissions and
2103 payment instruments issued or sold by the licensee ~~registrant~~ or
2104 an authorized agent ~~vendor~~ in the United States. As used in this
2105 section,

2106 ~~(2) Acceptable~~ permissible investments include:

2107 (a) Cash.

2108 (b) Certificates of deposit or other deposit liabilities of
2109 a domestic or foreign financial institution, ~~either domestic or~~
2110 ~~foreign.~~

2111 (c) Bankers' acceptances eligible for purchase by member
2112 banks of the Federal Reserve System.

2113 (d) An investment bearing a rating of one of the three
2114 highest grades as defined by a nationally recognized rating
2115 service of such securities.

2116 (e) Investment securities that are obligations of the
2117 United States, its agencies or instrumentalities, or obligations
2118 that are guaranteed fully as to principal and interest by the
2119 United States, or any obligations of any state or municipality,
2120 or any political subdivision thereof.

597-04187-08

20082158__

2121 (f) Shares in a money market mutual fund.

2122 (g) A demand borrowing agreement or agreements made to a
2123 corporation or a subsidiary of a corporation whose capital stock
2124 is listed on a national exchange.

2125 (h) Receivables that are due to a licensee ~~registrant~~ from
2126 the licensee's ~~registrant's~~ authorized agent ~~vendors~~ except those
2127 that are more than 90 ~~30~~ days past due or are doubtful of
2128 collection.

2129 (i) Any other investment approved by rule ~~the commission~~.

2130 (2) ~~(3)~~ Notwithstanding any other provision of this part,
2131 the office, with respect to any particular licensee ~~registrant~~ or
2132 all licensees ~~registrants~~, may limit the extent to which any
2133 class of permissible investments may be considered a permissible
2134 investment, except for cash and certificates of deposit.

2135 (3) ~~(4)~~ The office may waive the permissible investments
2136 requirement if the dollar value of a licensee's ~~registrant's~~
2137 outstanding payment instruments and money ~~funds~~ transmitted do
2138 not exceed the bond or collateral deposit posted by the licensee
2139 ~~registrant~~ under s. 560.209.

2140 Section 34. Section 560.211, Florida Statutes, is amended
2141 to read:

2142 560.211 Required records.--

2143 (1) In addition to the record retention requirements under
2144 s. 560.110, each licensee under this part ~~Each registrant~~ must
2145 make, keep, and preserve the following books, accounts, records,
2146 and documents ~~other records~~ for 5 ~~a period of 3~~ years:

2147 (a) A daily record ~~or records~~ of payment instruments sold
2148 and money ~~funds~~ transmitted.

597-04187-08

20082158__

2149 (b) A general ledger containing all asset, liability,
2150 capital, income, and expense accounts, which ~~general ledger~~ shall
2151 be posted at least monthly.

2152 (c) Daily settlement sheets received from authorized agents
2153 vendors.

2154 (d) Monthly financial institution statements and
2155 reconciliation records.

2156 (e) Records of outstanding payment instruments and money
2157 funds transmitted.

2158 (f) Records of each payment instrument paid and money funds
2159 transmission delivered ~~within the 3-year period~~.

2160 (g) A list of the names and addresses of all of the
2161 licensee's ~~registrant's~~ authorized agents ~~vendors~~, ~~as well as~~
2162 ~~copies of each authorized vendor contract~~.

2163 (h) Records that document the establishment, monitoring,
2164 and termination of relationships with authorized agents and
2165 foreign affiliates.

2166 (i) Any additional records, as prescribed by rule, designed
2167 to detect and prevent money laundering.

2168 ~~(2) The records required to be maintained by the code may~~
2169 ~~be maintained by the registrant at any location if the registrant~~
2170 ~~notifies the office in writing of the location of the records in~~
2171 ~~its application or otherwise by amendment as prescribed by~~
2172 ~~commission rule. The registrant shall make such records available~~
2173 ~~to the office for examination and investigation in this state, as~~
2174 ~~permitted by the code, within 7 days after receipt of a written~~
2175 ~~request.~~

2176 ~~(3) Registrants and authorized vendors need not preserve or~~
2177 ~~retain any of the records required by this section or copies~~

597-04187-08

20082158__

2178 ~~thereof for a period longer than 3 years unless a longer period~~
2179 ~~is expressly required by the laws of this state or federal law. A~~
2180 ~~registrant or authorized vendor may destroy any of its records or~~
2181 ~~copies thereof after the expiration of the retention period~~
2182 ~~required by this section.~~

2183 ~~(4) The original of any record of a registrant or~~
2184 ~~authorized vendor includes the data or other information~~
2185 ~~comprising a record stored or transmitted in or by means of any~~
2186 ~~electronic, computerized, mechanized, or other information~~
2187 ~~storage or retrieval or transmission system or device which can~~
2188 ~~upon request generate, regenerate, or transmit the precise data~~
2189 ~~or other information comprising the record; and an original also~~
2190 ~~includes the visible data or other information so generated,~~
2191 ~~regenerated, or transmitted if it is legible or can be made~~
2192 ~~legible by enlargement or other process.~~

2193 ~~(2)(5)~~ Any person who willfully fails to comply with this
2194 section commits a felony of the third degree, punishable as
2195 provided in s. 775.082, s. 775.083, or s. 775.084.

2196 Section 35. Section 560.212, Florida Statutes, is amended
2197 to read:

2198 560.212 Financial liability.--A licensee ~~Each registrant~~
2199 under this part is liable for the payment of all money funds
2200 transmitted and payment instruments that it sells, in whatever
2201 form and whether directly or through an authorized agent ~~vendor,~~
2202 as the maker, drawer, or principal thereof, regardless of whether
2203 such item is negotiable or nonnegotiable.

2204 Section 36. Section 560.213, Florida Statutes, is amended
2205 to read:

597-04187-08

20082158__

2206 560.213 Payment instrument information.--Each payment
2207 instrument sold or issued by a licensee ~~registrant~~, directly or
2208 through an authorized agent vendor, must ~~shall~~ bear the name of
2209 the licensee, and any other information as may be required by
2210 rule, ~~registrant~~ clearly imprinted thereon.

2211 Section 37. Section 560.303, Florida Statutes, is amended
2212 to read:

2213 560.303 License required ~~Requirement of registration~~--

2214 (1) A ~~No~~ person may not ~~shall~~ engage in, or in any manner
2215 advertise engagement in, the business of cashing payment
2216 instruments or ~~the~~ exchanging of foreign currency without being
2217 licensed ~~first registering~~ under ~~the provisions of~~ this part.

2218 (2) A person licensed under ~~registered pursuant to~~ this
2219 part may not engage in ~~the activities authorized by~~ this part. ~~A~~
2220 ~~person registered under this part is prohibited from engaging~~
2221 directly in the activities that require a license under ~~are~~
2222 ~~authorized under a registration issued pursuant to part II of~~
2223 this chapter, but may be ~~such person is not prohibited from~~
2224 ~~engaging in an authorized agent for vendor relationship with a~~
2225 person licensed ~~registered~~ under part II.

2226 (3) A person exempt from licensure under ~~registration~~
2227 ~~pursuant to~~ this part engaging in the business of cashing payment
2228 instruments or the exchanging of foreign currency may ~~shall~~ not
2229 charge fees in excess of those provided in s. 560.309.

2230 Section 38. Section 560.304, Florida Statutes, is amended
2231 to read:

2232 560.304 Exemption from licensure ~~Exceptions to~~
2233 ~~registration~~--The requirement for licensure under ~~provisions of~~
2234 this part does ~~do~~ not apply to a person, at a location, cashing

597-04187-08

20082158__

2235 payment instruments that have an aggregate face value of less
2236 than \$2,000 per person per day.÷

2237 ~~(1) Authorized vendors of any person registered pursuant to~~
2238 ~~the provisions of the code, acting within the scope of authority~~
2239 ~~conferred by the registrant.~~

2240 ~~(2) Persons engaged in the cashing of payment instruments~~
2241 ~~or the exchanging of foreign currency which is incidental to the~~
2242 ~~retail sale of goods or services whose compensation for cashing~~
2243 ~~payment instruments or exchanging foreign currency at each site~~
2244 ~~does not exceed 5 percent of the total gross income from the~~
2245 ~~retail sale of goods or services by such person during its most~~
2246 ~~recently completed fiscal year.~~

2247 Section 39. Section 560.309, Florida Statutes, is amended
2248 to read:

2249 560.309 Conduct of business Rules.--

2250 (1) A licensee may transact business under this part only
2251 under the legal name under which the person is licensed. The use
2252 of a fictitious name is allowed if the fictitious name has been
2253 registered with the Department of State and disclosed to the
2254 office as part of an initial license application, or subsequent
2255 amendment to the application, prior to its use. ~~Before a~~
2256 ~~registrant shall deposit, with any financial institution, a~~
2257 ~~payment instrument that is cashed by a registrant, each such item~~
2258 ~~must be endorsed with the actual name under which such registrant~~
2259 ~~is doing business.~~

2260 (2) At the time a licensee accepts a payment instrument
2261 that is cashed by the licensee, the payment instrument must be
2262 endorsed using the legal name under which the licensee is
2263 licensed. ~~Registrants must comply with all the laws of this state~~

597-04187-08

20082158__

2264 ~~and any federal laws relating to money laundering, including, as~~
2265 ~~applicable, the provisions of s. 560.123.~~

2266 (3) A licensee under this part must deposit or sell payment
2267 instruments within 5 business days after the acceptance of the
2268 payment instrument.

2269 (4) A licensee may not accept or cash multiple payment
2270 instruments from a person who is not the original payee, unless
2271 the person is licensed to cash payment instruments pursuant to
2272 this part and all payment instruments accepted are endorsed with
2273 the legal name of the person.

2274 (5) A licensee must report all suspicious activity to the
2275 office in accordance with the criteria set forth in 31 C.F.R. s.
2276 103.20. In lieu of filing such reports, the commission may
2277 prescribe by rule that the licensee may file such reports with an
2278 appropriate regulator.

2279 (6)~~(3)~~ The commission may by rule require a every check
2280 casher to display its license registration and post a notice
2281 listing containing its charges for cashing payment instruments.

2282 (7)~~(4)~~ Exclusive of the direct costs of verification which
2283 shall be established by ~~commission~~ rule, a ~~no~~ check casher may
2284 not shall:

2285 (a) Charge fees, except as otherwise provided by this part,
2286 in excess of 5 percent of the face amount of the payment
2287 instrument, ~~or 6 percent without the provision of identification,~~
2288 or \$5, whichever is greater;

2289 (b) Charge fees in excess of 3 percent of the face amount
2290 of the payment instrument, ~~or 4 percent without the provision of~~
2291 ~~identification,~~ or \$5, whichever is greater, if such payment
2292 instrument is the payment of any kind of state public assistance

597-04187-08

20082158__

2293 or federal social security benefit payable to the bearer of the
2294 ~~such~~ payment instrument; or

2295 (c) Charge fees for personal checks or money orders in
2296 excess of 10 percent of the face amount of those payment
2297 instruments, or \$5, whichever is greater.

2298 ~~(d) As used in this subsection, "identification" means, and~~
2299 ~~is limited to, an unexpired and otherwise valid driver license, a~~
2300 ~~state identification card issued by any state of the United~~
2301 ~~States or its territories or the District of Columbia, and~~
2302 ~~showing a photograph and signature, a United States Government~~
2303 ~~Resident Alien Identification Card, a United States passport, or~~
2304 ~~a United States Military identification card.~~

2305 (8) A licensee cashing payment instruments may not assess
2306 the cost of collections, other than fees for insufficient funds
2307 as provided by law, without a judgment from a court of competent
2308 jurisdiction.

2309 (9) If a check is returned to a licensee from a payor
2310 financial institution due to lack of funds, a closed account, or
2311 a stop-payment order, the licensee may seek collection pursuant
2312 to s. 68.065. In seeking collection, the licensee must comply
2313 with the prohibitions against harassment or abuse, false or
2314 misleading representations, and unfair practices in the Fair Debt
2315 Collections Practices Act, 15 U.S.C. ss. 1692d, 1692e, and 1692f.
2316 A violation of this subsection is a deceptive and unfair trade
2317 practice and constitutes a violation of the Deceptive and Unfair
2318 Trade Practices Act under part II of chapter 501. In addition, a
2319 licensee must comply with the applicable provisions of the
2320 Consumer Collection Practices Act under part VI of chapter 559,
2321 including s. 559.77.

597-04187-08

20082158__

2322 Section 40. Section 560.310, Florida Statutes, is amended
2323 to read:

2324 560.310 Records of check cashers and foreign currency
2325 exchangers.--

2326 (1) In addition to the record retention requirements
2327 specified in s. 560.110, a person engaged in check cashing must
2328 maintain the following:

2329 (a) Customer files, as prescribed by rule, on all customers
2330 who cash corporate or third-party payment instruments exceeding
2331 \$1,000.

2332 (b) For any payment instrument accepted having a face value
2333 of \$1,000 or more:

2334 1. A copy of the personal identification that bears a
2335 photograph of the customer used as identification and presented
2336 by the customer. Acceptable personal identification is limited to
2337 a valid driver's license; a state identification card issued by
2338 any state of the United States or its territories or the District
2339 of Columbia, and showing a photograph and signature; a United
2340 States Government Resident Alien Identification Card; a passport;
2341 or a United States Military identification card.

2342 2. A thumbprint of the customer taken by the licensee.

2343 (c) A payment instrument log that must be maintained
2344 electronically as prescribed by rule. For purposes of this
2345 paragraph, multiple payment instruments accepted from any one
2346 person on any given day which total \$1,000 or more must be
2347 aggregated and reported on the log. ~~Each registrant must maintain~~
2348 ~~all books, accounts, records, and documents necessary to~~
2349 ~~determine the registrant's compliance with the provisions of the~~

597-04187-08

20082158__

2350 ~~code. Such books, accounts, records, and documents shall be~~
2351 ~~retained for a period of at least 3 years.~~

2352 (2) A licensee under this part may engage the services of a
2353 third party that is not a depository institution for the
2354 maintenance and storage of records required by this section if
2355 all the requirements of this section are met. The records
2356 ~~required to be maintained by the code may be maintained by the~~
2357 ~~registrant at any location if the registrant notifies the office,~~
2358 ~~in writing, of the location of the records in its application or~~
2359 ~~otherwise by amendment as prescribed by commission rule. The~~
2360 ~~registrant shall make such records available to the office for~~
2361 ~~examination and investigation in this state, as permitted by the~~
2362 ~~code, within 7 days after receipt of a written request.~~

2363 ~~(3) Registrants and authorized vendors need not preserve or~~
2364 ~~retain any of the records required by this section or copies~~
2365 ~~thereof for a period longer than 3 years unless a longer period~~
2366 ~~is expressly required by the laws of this state or any federal~~
2367 ~~law. A registrant or authorized vendor may destroy any of its~~
2368 ~~records or copies thereof after the expiration of the retention~~
2369 ~~period required by this section.~~

2370 ~~(4) The original of any record of a registrant or~~
2371 ~~authorized vendor includes the data or other information~~
2372 ~~comprising a record stored or transmitted in or by means of any~~
2373 ~~electronic, computerized, mechanized, or other information~~
2374 ~~storage or retrieval or transmission system or device which can~~
2375 ~~upon request generate, regenerate, or transmit the precise data~~
2376 ~~or other information comprising the record; and an original also~~
2377 ~~includes the visible data or other information so generated,~~

597-04187-08

20082158__

2378 ~~regenerated, or transmitted if it is legible or can be made~~
2379 ~~legible by enlargement or other process.~~

2380 ~~(5) Any person who willfully violates this section or fails~~
2381 ~~to comply with any lawful written demand or order of the office~~
2382 ~~made pursuant to this section commits a felony of the third~~
2383 ~~degree, punishable as provided in s. 775.082, s. 775.083, or s.~~
2384 ~~775.084.~~

2385 Section 41. Section 560.402, Florida Statutes, is amended
2386 to read:

2387 560.402 Definitions.--~~In addition to the definitions~~
2388 ~~provided in ss. 560.103, 560.202, and 560.302 and unless~~
2389 ~~otherwise clearly indicated by the context,~~ For the purposes of
2390 this part, the term:

2391 (1) "Affiliate" means a person who, directly or indirectly,
2392 through one or more intermediaries controls, ~~or~~ is controlled by,
2393 or is under common control with, a deferred presentment provider.

2394 ~~(2) "Business day" means the hours during a particular day~~
2395 ~~during which a deferred presentment provider customarily conducts~~
2396 ~~business, not to exceed 15 consecutive hours during that day.~~

2397 ~~(3) "Days" means calendar days.~~

2398 ~~(2)(4)~~ (2) "Deferment period" means the number of days a
2399 deferred presentment provider agrees to defer depositing, ~~or~~
2400 presenting, or redeeming a payment instrument.

2401 ~~(5) "Deferred presentment provider" means a person who~~
2402 ~~engages in a deferred presentment transaction and is registered~~
2403 ~~under part II or part III of the code and has filed a declaration~~
2404 ~~of intent with the office.~~

2405 ~~(3)(6)~~ (3) "Deferred presentment transaction" means providing
2406 currency or a payment instrument in exchange for a drawer's

597-04187-08

20082158__

2407 | ~~person's~~ check and agreeing to hold the ~~that person's~~ check for a
2408 | deferment period of time prior to presentment, deposit, or
2409 | redemption.

2410 | (4) ~~(7)~~ "Drawer" means a customer ~~any person~~ who writes a
2411 | personal check and upon whose account the check is drawn.

2412 | (5) "Extension of a deferred presentment agreement" means
2413 | continuing a deferred presentment transaction past the deferment
2414 | period by having the drawer pay additional fees and the deferred
2415 | presentment provider continuing to hold the check for another
2416 | deferment period.

2417 | (6) ~~(8)~~ "Rollover" means the termination or extension of a
2418 | ~~an existing~~ deferred presentment agreement by the payment of an
2419 | ~~any~~ additional fee and the continued holding of the check, or the
2420 | substitution of a new check ~~drawn~~ by the drawer pursuant to a new
2421 | deferred presentment agreement.

2422 | ~~(9)~~ "~~Fee~~" means ~~the fee authorized for the deferral of the~~
2423 | ~~presentation of a check pursuant to this part.~~

2424 | (7) ~~(10)~~ "Termination of a ~~an existing~~ deferred presentment
2425 | agreement" means that the check that is the basis for the ~~an~~
2426 | agreement is redeemed by the drawer by payment in full in cash,
2427 | or is deposited and the deferred presentment provider has
2428 | evidence that such check has cleared. ~~A~~ Verification of
2429 | sufficient funds in the drawer's account by the deferred
2430 | presentment provider is ~~shall not be~~ sufficient evidence to deem
2431 | that the ~~existing~~ deferred deposit transaction is ~~to be~~
2432 | terminated.

2433 | ~~(11)~~ "~~Extension of an existing deferred presentment~~
2434 | ~~agreement~~" means ~~that a deferred presentment transaction is~~
2435 | ~~continued by the drawer paying any additional fees and the~~

597-04187-08

20082158__

2436 ~~deferred presentment provider continues to hold the check for~~
2437 ~~another period of time prior to deposit, presentment, or~~
2438 ~~redemption.~~

2439 Section 42. Section 560.403, Florida Statutes, is amended
2440 to read:

2441 560.403 ~~Requirements of registration;~~ Declaration of
2442 intent.--

2443 ~~(1)~~ Except for financial institutions as defined in s.
2444 655.005 ~~No person, Unless otherwise exempt from this chapter, a~~
2445 person may not shall engage in a deferred presentment transaction
2446 unless the person is licensed as a money services business
2447 ~~registered under the provisions of part II or part III of this~~
2448 chapter and has on file with the office a declaration of intent
2449 to engage in deferred presentment transactions, regardless of
2450 whether such person is exempted from licensure under any other
2451 provision of this chapter. The declaration of intent must shall
2452 be under oath and on such form as prescribed ~~the commission~~
2453 ~~prescribes~~ by rule. The declaration of intent must shall be filed
2454 ~~together~~ with a nonrefundable filing fee as provided in s.
2455 560.143 ~~of \$1,000.~~ Any person who is ~~registered under part II or~~
2456 ~~part III on the effective date of this act and intends to engage~~
2457 ~~in deferred presentment transactions shall have 60 days after the~~
2458 ~~effective date of this act to file a declaration of intent.~~ A
2459 declaration of intent expires after 24 months and must be
2460 renewed.

2461 ~~(2)~~ ~~A registrant under this part shall renew his or her~~
2462 ~~intent to engage in the business of deferred presentment~~
2463 ~~transactions or to act as a deferred presentment provider upon~~
2464 ~~renewing his or her registration under part II or part III and~~

597-04187-08

20082158__

2465 shall do so by indicating his or her intent by submitting a
2466 nonrefundable deferred presentment provider renewal fee of
2467 \$1,000, in addition to any fees required for renewal of
2468 registration under part II or part III.

2469 (3) A registrant under this part who fails to timely renew
2470 his or her intent to engage in the business of deferred
2471 presentment transactions or to act as a deferred presentment
2472 provider shall immediately cease to engage in the business of
2473 deferred presentment transactions or to act as a deferred
2474 presentment provider.

2475 (4) The notice of intent of a registrant under this part
2476 who fails to timely renew his or her intent to engage in the
2477 business of deferred presentment transactions or to act as a
2478 deferred presentment provider on or before the expiration date of
2479 the registration period automatically expires. A renewal fee and
2480 a nonrefundable late fee of \$500 must be filed within 60 calendar
2481 days after the expiration of an existing registration in order
2482 for the declaration of intent to be reinstated. The office shall
2483 grant a reinstatement of registration if an application is filed
2484 during the 60-day period, and the reinstatement is effective upon
2485 receipt of the required fees and any information that the
2486 commission requires by rule. If the registrant has not filed a
2487 reinstatement of a renewal declaration of intent within 60
2488 calendar days after the expiration date of an existing
2489 registration, the notice of intent expires and a new declaration
2490 of intent must be filed with the office.

2491 (5) No person, other than a financial institution as
2492 defined in s. 655.005, shall be exempt from registration and
2493 declaration if such person engages in deferred presentment

597-04187-08

20082158__

2494 ~~transactions, regardless of whether such person is currently~~
2495 ~~exempt from registration under any provision of this code.~~

2496 Section 43. Section 560.404, Florida Statutes, is amended
2497 to read:

2498 560.404 Requirements for deferred presentment
2499 transactions.--

2500 (1) Each ~~Every~~ deferred presentment transaction must ~~shall~~
2501 be documented in a written agreement signed by ~~both~~ the deferred
2502 presentment provider and the drawer.

2503 (2) The deferred presentment transaction agreement must
2504 ~~shall~~ be executed on the day the deferred presentment provider
2505 furnishes currency or a payment instrument to the drawer.

2506 (3) Each written agreement must ~~shall contain the following~~
2507 ~~information,~~ in addition to any information required ~~the~~
2508 ~~commission requires by rule,~~ contain the following information:

2509 (a) The name or trade name, address, and telephone number
2510 of the deferred presentment provider and the name and title of
2511 the person who signs the agreement on behalf of the ~~deferred~~
2512 ~~presentment~~ provider.

2513 (b) The date the deferred presentment transaction is ~~was~~
2514 made.

2515 (c) The amount of the drawer's check.

2516 (d) The length of the deferment ~~deferral~~ period.

2517 (e) The last day of the deferment period.

2518 (f) The address and telephone number of the office ~~and the~~
2519 ~~Division of Consumer Services of the Department of Financial~~
2520 ~~Services.~~

2521 (g) A clear description of the drawer's payment obligations
2522 under the deferred presentment transaction.

597-04187-08

20082158__

2523 (h) The transaction number assigned by the office's
2524 database.

2525 (4) The ~~Every~~ deferred presentment provider must ~~shall~~
2526 furnish ~~to the drawer~~ a copy of the deferred presentment
2527 transaction agreement to the drawer.

2528 (5) The face amount of a check taken for deferred
2529 presentment may not exceed \$500 exclusive of the fees allowed
2530 under ~~by~~ this part.

2531 (6) A ~~No~~ deferred presentment provider or its affiliate may
2532 not ~~shall~~ charge fees that exceed ~~in excess of~~ 10 percent of the
2533 currency or payment instrument provided. However, a verification
2534 fee may be charged as provided in s. 560.309(7) ~~in accordance~~
2535 ~~with s. 560.309(4) and the rules adopted pursuant to the code.~~
2536 The 10-percent fee may not be applied to the verification fee. A
2537 deferred presentment provider may charge only those fees
2538 specifically authorized in this section.

2539 (7) The fees authorized by this section may not be
2540 collected before the drawer's check is presented or redeemed.

2541 (8) A ~~No~~ deferred presentment agreement may not ~~shall~~ be
2542 for a term longer than ~~in excess of~~ 31 days or less than 7 days.

2543 (9) A ~~No~~ deferred presentment provider may not ~~shall~~
2544 require a drawer ~~person~~ to provide any additional security for
2545 the deferred presentment transaction or any extension or require
2546 the drawer ~~a person~~ to provide any additional guaranty from
2547 another person.

2548 (10) A deferred presentment provider may ~~shall~~ not include
2549 any of the following provisions in a deferred provider ~~any~~
2550 ~~written~~ agreement:

2551 (a) A hold harmless clause .~~†~~

597-04187-08

20082158__

- 2552 (b) A confession of judgment clause.~~†~~
- 2553 (c) Any assignment of or order for payment of wages or
2554 other compensation for services.~~†~~
- 2555 (d) A provision in which the drawer agrees not to assert
2556 any claim or defense arising out of the agreement.~~†~~~~or~~
- 2557 (e) A waiver of any provision of this part.
- 2558 (11) A ~~Each~~ deferred presentment provider shall immediately
2559 provide the drawer with the full amount of any check to be held,
2560 less only the fees allowed ~~permitted~~ under this section.
- 2561 (12) The deferred presentment agreement and the drawer's
2562 check must ~~shall~~ bear the same date, and the number of days of
2563 the deferment period shall be calculated from that ~~this~~ date. The
2564 ~~No~~ deferred presentment provider and the drawer ~~or person~~ may not
2565 alter or delete the date on any written agreement or check held
2566 by the deferred presentment provider.
- 2567 (13) For each deferred presentment transaction, the
2568 deferred presentment provider must comply with the disclosure
2569 requirements of 12 C.F.R., part 226, relating to the federal
2570 Truth-in-Lending Act, and Regulation Z of the Board of Governors
2571 of the Federal Reserve Board. A copy of the disclosure must be
2572 provided to the drawer at the time the deferred presentment
2573 transaction is initiated.
- 2574 (14) A ~~No~~ deferred presentment provider or its affiliate
2575 may not accept or hold an undated check or a check dated on a
2576 date other than the date on which the deferred presentment
2577 provider agreed to hold the check and signed the deferred
2578 presentment transaction agreement.
- 2579 (15) A ~~Every~~ deferred presentment provider must ~~shall~~ hold
2580 the drawer's check for the agreed number of days, unless the

597-04187-08

20082158__

2581 drawer chooses to redeem the check before the ~~agreed~~ presentment
2582 date.

2583 (16) Proceeds in a deferred presentment transaction may be
2584 made to the drawer in the form of the deferred presentment
2585 provider's payment instrument if the deferred presentment
2586 provider is registered under part II; however, an ~~no~~ additional
2587 fee may not be charged by a deferred presentment provider or its
2588 affiliate for issuing or cashing the deferred presentment
2589 provider's payment instrument.

2590 (17) A ~~No~~ deferred presentment provider may not require the
2591 drawer to accept its payment instrument in lieu of currency.

2592 (18) A ~~No~~ deferred presentment provider or its affiliate
2593 may not engage in the rollover of a ~~any~~ deferred presentment
2594 agreement. A deferred presentment provider may ~~shall~~ not redeem,
2595 extend, or otherwise consolidate a deferred presentment agreement
2596 with the proceeds of another deferred presentment transaction
2597 made by the same or an affiliate ~~affiliated deferred presentment~~
2598 ~~provider~~.

2599 (19) A deferred presentment provider may not enter into a
2600 deferred presentment transaction with a drawer ~~person~~ who has an
2601 outstanding deferred presentment transaction with that provider
2602 or with any other deferred presentment provider, or with a person
2603 whose previous deferred presentment transaction with that
2604 provider or with any other provider has been terminated for less
2605 than 24 hours. The deferred presentment provider must verify such
2606 information as follows:

2607 (a) The deferred presentment provider shall maintain a
2608 common database and shall verify whether the ~~that~~ ~~deferred~~
2609 ~~presentment~~ provider or an affiliate has an outstanding deferred

597-04187-08

20082158__

2610 presentment transaction with a particular person or has
2611 terminated a transaction with that person within the previous 24
2612 hours.

2613 (b) The deferred presentment provider shall access the
2614 office's database established pursuant to subsection (23) and
2615 shall verify whether any other deferred presentment provider has
2616 an outstanding deferred presentment transaction with a particular
2617 person or has terminated a transaction with that person within
2618 the previous 24 hours. If a provider has not established ~~Prior to~~
2619 ~~the time that the office has implemented~~ such a database, the
2620 deferred presentment provider may rely upon the written
2621 verification of the drawer as provided in subsection (20).

2622 (20) A deferred presentment provider shall provide the
2623 following notice in a prominent place on each deferred
2624 presentment agreement in at least 14-point type in substantially
2625 the following form and must obtain the signature of the drawer
2626 where indicated:

2627
2628 NOTICE

2629
2630 1. STATE LAW PROHIBITS YOU FROM HAVING MORE THAN ONE DEFERRED
2631 PRESENTMENT AGREEMENT AT ANY ONE TIME. STATE LAW ALSO PROHIBITS
2632 YOU FROM ENTERING INTO A DEFERRED PRESENTMENT AGREEMENT WITHIN 24
2633 HOURS AFTER ~~OF~~ TERMINATING ANY PREVIOUS DEFERRED PRESENTMENT
2634 AGREEMENT. FAILURE TO OBEY THIS LAW COULD CREATE SEVERE FINANCIAL
2635 HARDSHIP FOR YOU AND YOUR FAMILY.

2636
2637 YOU MUST SIGN THE FOLLOWING STATEMENT:
2638

597-04187-08

20082158__

2639 I DO NOT HAVE AN OUTSTANDING DEFERRED PRESENTMENT AGREEMENT WITH
2640 ANY DEFERRED PRESENTMENT PROVIDER AT THIS TIME. I HAVE NOT
2641 TERMINATED A DEFERRED PRESENTMENT AGREEMENT WITHIN THE PAST 24
2642 HOURS.

2643
2644 (Signature of Drawer)

2645
2646 2. YOU CANNOT BE PROSECUTED IN CRIMINAL COURT FOR A CHECK
2647 WRITTEN UNDER THIS AGREEMENT, BUT ALL LEGALLY AVAILABLE CIVIL
2648 MEANS TO ENFORCE THE DEBT MAY BE PURSUED AGAINST YOU.

2649
2650 3. STATE LAW PROHIBITS A DEFERRED PRESENTMENT PROVIDER (THIS
2651 BUSINESS) FROM ALLOWING YOU TO "ROLL OVER" YOUR DEFERRED
2652 PRESENTMENT TRANSACTION. THIS MEANS THAT YOU CANNOT BE ASKED OR
2653 REQUIRED TO PAY AN ADDITIONAL FEE IN ORDER TO FURTHER DELAY THE
2654 DEPOSIT OR PRESENTMENT OF YOUR CHECK FOR PAYMENT. IF YOU INFORM
2655 THE PROVIDER IN PERSON THAT YOU CANNOT COVER THE CHECK OR PAY IN
2656 FULL THE AMOUNT OWING AT THE END OF THE TERM OF THIS AGREEMENT,
2657 YOU WILL RECEIVE A GRACE PERIOD EXTENDING THE TERM OF THE
2658 AGREEMENT FOR AN ADDITIONAL 60 DAYS AFTER THE ORIGINAL
2659 TERMINATION DATE, WITHOUT ANY ADDITIONAL CHARGE. THE DEFERRED
2660 PRESENTMENT PROVIDER SHALL REQUIRE THAT YOU, AS A CONDITION OF
2661 OBTAINING THE GRACE PERIOD, COMPLETE CONSUMER CREDIT COUNSELING
2662 PROVIDED BY AN AGENCY INCLUDED ON THE LIST THAT WILL BE PROVIDED
2663 TO YOU BY THIS PROVIDER. YOU MAY ALSO AGREE TO COMPLY WITH AND
2664 ADHERE TO A REPAYMENT PLAN APPROVED BY THAT AGENCY. IF YOU DO NOT
2665 COMPLY WITH AND ADHERE TO A REPAYMENT PLAN APPROVED BY THAT
2666 AGENCY, WE MAY DEPOSIT OR PRESENT YOUR CHECK FOR PAYMENT AND

597-04187-08

20082158__

2667 PURSUE ALL LEGALLY AVAILABLE CIVIL MEANS TO ENFORCE THE DEBT AT
2668 THE END OF THE 60-DAY GRACE PERIOD.

2669 (21) The deferred presentment provider may not deposit or
2670 present the drawer's check if the drawer informs the provider in
2671 person that the drawer cannot redeem or pay in full in cash the
2672 amount due and owing the deferred presentment provider. No
2673 additional fees or penalties may be imposed on the drawer by
2674 virtue of any misrepresentation made by the drawer as to the
2675 sufficiency of funds in the drawer's account. ~~In no event shall~~
2676 ~~any~~ Additional fees may not be added to the amounts due and owing
2677 to the deferred presentment provider.

2678 (22) ~~(a)~~ If, by the end of the deferment period, the drawer
2679 informs the deferred presentment provider in person that the
2680 drawer cannot redeem or pay in full in cash the amount due and
2681 owing the deferred presentment provider, the deferred presentment
2682 provider shall provide a grace period extending the term of the
2683 agreement for an additional 60 days after the original
2684 termination date, without any additional charge.

2685 (a) The provider shall require that as a condition of
2686 providing a ~~this~~ grace period, that ~~within the first 7 days of~~
2687 ~~the grace period~~ the drawer make an appointment with a consumer
2688 credit counseling agency within 7 days after the end of the
2689 deferment period and complete the counseling by the end of the
2690 grace period. The drawer may agree to, comply with, and adhere to
2691 a repayment plan approved by the counseling agency. If the drawer
2692 agrees to comply with and adhere to a repayment plan approved by
2693 the counseling agency, the provider must ~~is~~ ~~also required to~~
2694 comply with and adhere to that repayment plan. The deferred
2695 presentment provider may not deposit or present the drawer's

597-04187-08

20082158__

2696 check for payment before the end of the 60-day grace period
2697 unless the drawer fails to comply with such conditions or the
2698 drawer fails to notify the provider of such compliance. Before
2699 each deferred presentment transaction, the provider may verbally
2700 advise the drawer of the availability of the grace period
2701 consistent with ~~the provisions of~~ the written notice in
2702 subsection (20), and may ~~shall~~ not discourage the drawer from
2703 using the grace period.

2704 (b) At the commencement of the grace period, the deferred
2705 presentment provider shall provide the drawer:

2706 1. Verbal notice of the availability of the grace period
2707 consistent with the written notice in subsection (20).

2708 2. A list of approved consumer credit counseling agencies
2709 prepared by the office. The office list shall include nonprofit
2710 consumer credit counseling agencies affiliated with the National
2711 Foundation for Credit Counseling which provide credit counseling
2712 services to state ~~Florida~~ residents in person, by telephone, or
2713 through the Internet. The office list must include phone numbers
2714 for the agencies, the counties served by the agencies, and
2715 indicate the agencies that provide telephone counseling and those
2716 that provide Internet counseling. The office shall update the
2717 list at least once each year.

2718 3. The following notice in at least 14-point type in
2719 substantially the following form:

2720

2721

2722 AS A CONDITION OF OBTAINING A GRACE PERIOD EXTENDING THE TERM OF
2723 YOUR DEFERRED PRESENTMENT AGREEMENT FOR AN ADDITIONAL 60 DAYS,
2724 UNTIL [DATE], WITHOUT ANY ADDITIONAL FEES, YOU MUST COMPLETE

597-04187-08

20082158__

2725 CONSUMER CREDIT COUNSELING PROVIDED BY AN AGENCY INCLUDED ON THE
2726 LIST THAT WILL BE PROVIDED TO YOU BY THIS PROVIDER. YOU MAY ALSO
2727 AGREE TO COMPLY WITH AND ADHERE TO A REPAYMENT PLAN APPROVED BY
2728 THE AGENCY. THE COUNSELING MAY BE IN PERSON, BY TELEPHONE, OR
2729 THROUGH THE INTERNET. YOU MUST NOTIFY US WITHIN 7 ~~SEVEN (7)~~ DAYS,
2730 BY [DATE], THAT YOU HAVE MADE AN APPOINTMENT WITH ~~SUCH~~ A CONSUMER
2731 CREDIT COUNSELING AGENCY. YOU MUST ALSO NOTIFY US WITHIN 60 ~~SIXTY~~
2732 ~~(60)~~ DAYS, BY [DATE], THAT YOU HAVE COMPLETED THE CONSUMER CREDIT
2733 COUNSELING. WE MAY VERIFY THIS INFORMATION WITH THE AGENCY. IF
2734 YOU FAIL TO PROVIDE ~~EITHER~~ THE 7-DAY OR 60-DAY NOTICE, OR IF YOU
2735 HAVE NOT MADE THE APPOINTMENT OR COMPLETED THE COUNSELING WITHIN
2736 THE TIME REQUIRED, WE MAY DEPOSIT OR PRESENT YOUR CHECK FOR
2737 PAYMENT AND PURSUE ALL LEGALLY AVAILABLE CIVIL MEANS TO ENFORCE
2738 THE DEBT.

2739 (c) If a drawer completes an approved payment plan, the
2740 deferred presentment provider shall pay one-half of the drawer's
2741 fee for the deferred presentment agreement to the consumer credit
2742 counseling agency.

2743 (23) The office shall implement a common database with
2744 real-time access through an Internet connection for deferred
2745 presentment providers, as provided in this subsection. The
2746 database must be accessible to the office and the deferred
2747 presentment providers in order to verify whether any deferred
2748 presentment transactions are outstanding for a particular person.
2749 Deferred presentment providers shall submit such data before
2750 entering into each deferred presentment transaction in such
2751 format as required ~~the commission shall require~~ by rule,
2752 including the drawer's name, social security number or employment
2753 authorization alien number, address, driver's license number,

597-04187-08

20082158__

2754 amount of the transaction, date of transaction, the date that the
2755 transaction is closed, and such additional information as is
2756 required by rule ~~the commission~~. The commission may by rule
2757 impose a fee of up to ~~not to exceed~~ \$1 per transaction for data
2758 that must ~~required to~~ be submitted by a deferred presentment
2759 provider. A deferred presentment provider may rely on the
2760 information contained in the database as accurate and is not
2761 subject to any administrative penalty or civil liability due to
2762 ~~as a result of~~ relying on inaccurate information contained in the
2763 database. A deferred presentment provider must notify the office
2764 within 15 business days after ceasing operations and in a manner
2765 as prescribed by rule. Such notification must include a
2766 reconciliation of all open transactions. If the provider fails to
2767 provide notice, the office shall take action to administratively
2768 release all open and pending transactions in the database after
2769 the office becomes aware of the closure. This section does not
2770 affect the rights of the provider to enforce the contractual
2771 provisions of the deferred presentment agreements through any
2772 civil action allowed by law. The commission may adopt rules to
2773 administer ~~and enforce the provisions of this subsection section~~
2774 and to ensure ~~assure~~ that the database is used by deferred
2775 presentment providers in accordance with this section.

2776 (24) A deferred presentment provider may not accept more
2777 than one check or authorization to initiate more than one
2778 automated clearinghouse transaction to collect on a deferred
2779 presentment transaction for a single deferred presentment
2780 transaction.

2781 Section 44. Section 560.405, Florida Statutes, is amended
2782 to read:

597-04187-08

20082158__

2783 560.405 Deposit; redemption.--

2784 (1) The deferred presentment provider or its affiliate may
2785 ~~shall~~ not present the drawer's check before the end of the
2786 deferment period ~~prior to the agreed-upon date of presentment~~, as
2787 reflected in the deferred presentment transaction agreement.

2788 (2) Before a deferred presentment provider presents the
2789 drawer's check, the check must ~~shall~~ be endorsed with the ~~actual~~
2790 name under which the deferred presentment provider is doing
2791 business.

2792 (3) Notwithstanding ~~the provisions of~~ subsection (1), in
2793 lieu of presentment, a deferred presentment provider may allow
2794 the check to be redeemed at any time upon payment ~~to the deferred~~
2795 ~~presentment provider in the amount~~ of the face amount of the
2796 drawer's check. However, payment may not be made in the form of a
2797 personal check. Upon redemption, the deferred presentment
2798 provider shall return the drawer's check ~~that was being held~~ and
2799 provide a signed, dated receipt showing that the drawer's check
2800 has been redeemed.

2801 (4) A ~~No~~ drawer may not ~~can~~ be required to redeem his or
2802 her check before ~~prior to~~ the agreed-upon date; however, the
2803 drawer may choose to redeem the check before the agreed-upon
2804 presentment date.

2805 Section 45. Section 560.406, Florida Statutes, is amended
2806 to read:

2807 560.406 Worthless checks.--

2808 (1) If a check is returned to a deferred presentment
2809 provider from a payor financial institution due to lack of funds,
2810 a closed account, or a stop-payment order, the deferred
2811 presentment provider may seek collection pursuant to s. 68.065,

597-04187-08

20082158__

2812 except a deferred presentment provider may ~~shall not be entitled~~
2813 ~~to~~ collect treble damages ~~pursuant s. 68.065~~. The notice sent by
2814 the a deferred deposit provider may ~~pursuant to s. 68.065 shall~~
2815 not include any references to treble damages and must clearly
2816 state that the deferred presentment provider is not entitled to
2817 recover such damages. Except as otherwise provided in this part,
2818 an individual who issues a personal check to a deferred
2819 presentment provider under a deferred presentment agreement is
2820 not subject to criminal penalty.

2821 (2) If a check is returned to a deferred presentment
2822 provider from a payor financial institution due to insufficient
2823 funds, a closed account, or a stop-payment order, the deferred
2824 presentment provider may pursue all legally available civil
2825 remedies to collect the check, including, but not limited to, the
2826 imposition of all charges imposed on the deferred presentment
2827 provider by the ~~any~~ financial institution. In its collection
2828 practices, a deferred presentment provider must ~~shall~~ comply with
2829 the prohibitions against harassment or abuse, false or misleading
2830 representations, and unfair practices that ~~which~~ are contained in
2831 ~~ss. 806, 807, and 808~~ of the Fair Debt Collections Practices Act,
2832 15 U.S.C. ss. 1692d, 1692e, 1692f. A violation of this act is a
2833 deceptive and unfair trade practice and constitutes a violation
2834 of the Deceptive and Unfair Trade Practices Act under,~~7~~ part II of
2835 chapter 501. In addition, a deferred presentment provider must
2836 ~~shall~~ comply with the applicable provisions of ~~part VI of chapter~~
2837 ~~559,~~ the Consumer Collection Practices Act under part VI of
2838 chapter 559, including, ~~but not limited to, the provisions of s.~~
2839 559.77.

597-04187-08

20082158__

2840 (3) A deferred presentment provider may not assess the cost
2841 of collection, other than charges for insufficient funds as
2842 allowed by law, without a judgment from a court of competent
2843 jurisdiction.

2844 Section 46. Subsection (7) of section 499.005, Florida
2845 Statutes, is amended to read:

2846 499.005 Prohibited acts.--It is unlawful for a person to
2847 perform or cause the performance of any of the following acts in
2848 this state:

2849 (7) The purchase or sale of prescription drugs for
2850 wholesale distribution in exchange for currency, as defined in s.
2851 560.103 ~~s. 560.103(6)~~.

2852 Section 47. Paragraph (i) of subsection (2) of section
2853 499.0691, Florida Statutes, is amended to read:

2854 499.0691 Criminal punishment for violations related to
2855 drugs; dissemination of false advertisement.--

2856 (2) Any person who violates any of the following provisions
2857 commits a felony of the third degree, punishable as provided in
2858 s. 775.082, s. 775.083, or s. 775.084, or as otherwise provided
2859 in ss. 499.001-499.081.

2860 (i) The purchase or sale of prescription drugs for
2861 wholesale distribution in exchange for currency, as defined in s.
2862 560.103 ~~s. 560.103(6)~~.

2863 Section 48. Paragraph (b) of subsection (2) of section
2864 501.95, Florida Statutes, is amended to read:

2865 501.95 Gift certificates and credit memos.--

2866 (2)

2867 (b) Paragraph (a) does not apply to a gift certificate or
2868 credit memo sold or issued by a financial institution, as defined

597-04187-08

20082158__

2869 | in s. 655.005, or by a money services business ~~transmitter~~, as
2870 | defined in s. 560.103, if the gift certificate or credit memo is
2871 | redeemable by multiple unaffiliated merchants.

2872 | Section 49. Paragraph (n) of subsection (2) of section
2873 | 538.03, Florida Statutes, is amended to read:

2874 | 538.03 Definitions; applicability.--

2875 | (2) This chapter does not apply to:

2876 | (n) A business that contracts with other persons or
2877 | entities to offer its secondhand goods for sale, purchase,
2878 | consignment, or trade via an Internet website, and that maintains
2879 | a shop, store, or other business premises for this purpose, if
2880 | all of the following apply:

2881 | 1. The secondhand goods must be available on the website
2882 | for viewing by the public at no charge;

2883 | 2. The records of the sale, purchase, consignment, or trade
2884 | must be maintained for at least 2 years;

2885 | 3. The records of the sale, purchase, consignment, or
2886 | trade, and the description of the secondhand goods as listed on
2887 | the website, must contain the serial number of each item, if any;

2888 | 4. The secondhand goods listed on the website must be
2889 | searchable based upon the state or zip code;

2890 | 5. The business must provide the appropriate law
2891 | enforcement agency with the name or names under which it conducts
2892 | business on the website;

2893 | 6. The business must allow the appropriate law enforcement
2894 | agency to inspect its business premises at any time during normal
2895 | business hours;

2896 | 7. Any payment by the business resulting from such a sale,
2897 | purchase, consignment, or trade must be made to the person or

597-04187-08

20082158__

2898 | entity with whom the business contracted to offer the goods and
2899 | must be made by check or via a money services business
2900 | ~~transmitter~~ licensed under part II of chapter 560; and

2901 | 8.a. At least 48 hours after the estimated time of
2902 | contracting to offer the secondhand goods, the business must
2903 | verify that any item having a serial number is not stolen
2904 | property by entering the serial number of the item into the
2905 | Department of Law Enforcement's stolen article database located
2906 | at the Florida Crime Information Center's public access system
2907 | website. The business shall record the date and time of such
2908 | verification on the contract covering the goods. If such
2909 | verification reveals that an item is stolen property, the
2910 | business shall immediately remove the item from any website on
2911 | which it is being offered and notify the appropriate law
2912 | enforcement agency; or

2913 | b. The business must provide the appropriate law
2914 | enforcement agency with an electronic copy of the name, address,
2915 | phone number, driver's license number, and issuing state of the
2916 | person with whom the business contracted to offer the goods, as
2917 | well as an accurate description of the goods, including make,
2918 | model, serial number, and any other unique identifying marks,
2919 | numbers, names, or letters that may be on an item, in a format
2920 | agreed upon by the business and the appropriate law enforcement
2921 | agency. This information must be provided to the appropriate law
2922 | enforcement agency within 24 hours after entering into the
2923 | contract unless other arrangements are made between the business
2924 | and the law enforcement agency.

2925 | Section 50. Subsection (10) of section 896.101, Florida
2926 | Statutes, is amended to read:

597-04187-08

20082158__

2927 896.101 Florida Money Laundering Act; definitions;
2928 penalties; injunctions; seizure warrants; immunity.--

2929 (10) Any financial institution, licensed money services
2930 business transmitter, or other person served with and complying
2931 with the terms of a warrant, temporary injunction, or other court
2932 order, including any subpoena issued under ~~the authority granted~~
2933 ~~by~~ s. 16.56 or s. 27.04, obtained in furtherance of an
2934 investigation of any crime in this section, including any crime
2935 listed as specified unlawful activity under this section or any
2936 felony violation of chapter 560, has immunity from criminal
2937 liability and is ~~shall~~ not be liable to any person for any lawful
2938 action taken in complying with the warrant, temporary injunction,
2939 or other court order, including any subpoena issued under ~~the~~
2940 ~~authority granted by~~ s. 16.56 or s. 27.04. If any subpoena issued
2941 under ~~the authority granted by~~ s. 16.56 or s. 27.04 contains a
2942 nondisclosure provision, any financial institution, licensed
2943 money services business transmitter, employee or officer of a
2944 financial institution or licensed money services business
2945 transmitter, or any other person may not notify, directly or
2946 indirectly, any customer of that financial institution or
2947 ~~licensed money services business transmitter~~ whose records are
2948 being sought by the subpoena, or any other person named in the
2949 subpoena, about the existence or the contents of that subpoena or
2950 about information that has been furnished to the state attorney
2951 or statewide prosecutor who issued the subpoena or other law
2952 enforcement officer named in the subpoena in response to the
2953 subpoena.

2954 Section 51. Subsection (5) of section 896.104, Florida
2955 Statutes, is amended to read:

597-04187-08

20082158__

2956 896.104 Structuring transactions to evade reporting or
 2957 registration requirements prohibited.--

2958 (5) INFERENCE.--Proof that a person engaged for monetary
 2959 consideration in the business of a money funds transmitter, as
 2960 defined in s. 560.103, ~~s. 560.103(10)~~ and who is transporting
 2961 more than \$10,000 in currency, or the foreign equivalent, without
 2962 being licensed ~~registered~~ as a money transmitter or designated as
 2963 an authorized agent ~~vendor~~ under ~~the provisions of~~ chapter 560,
 2964 gives rise to an inference that the transportation was done with
 2965 knowledge of the licensure ~~registration~~ requirements of chapter
 2966 560 and the reporting requirements of this chapter.

2967 Section 52. Paragraph (g) of subsection (3) of section
 2968 921.0022, Florida Statutes, is amended to read:

2969 921.0022 Criminal Punishment Code; offense severity ranking
 2970 chart.--

2971 (3) OFFENSE SEVERITY RANKING CHART

2972 (g) LEVEL 7

Florida Statute	Felony Degree	Description
316.027 (1) (b)	1st	Accident involving death, failure to stop; leaving scene.
316.193 (3) (c) 2.	3rd	DUI resulting in serious bodily injury.
316.1935 (3) (b)	1st	Causing serious

597-04187-08

20082158__

2976

327.35 (3) (c) 2.

3rd

bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.

Vessel BUI resulting in serious bodily injury.

2977

402.319 (2)

2nd

Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.

2978

597-04187-08

20082158__

2979	409.920 (2)	3rd	Medicaid provider fraud.
2980	456.065 (2)	3rd	Practicing a health care profession without a license.
2981	456.065 (2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
2982	458.327 (1)	3rd	Practicing medicine without a license.
2983	459.013 (1)	3rd	Practicing osteopathic medicine without a license.
2984	460.411 (1)	3rd	Practicing chiropractic medicine without a license.
	461.012 (1)	3rd	Practicing podiatric medicine without a license.

597-04187-08

20082158__

2985	462.17	3rd	Practicing naturopathy without a license.
2986	463.015 (1)	3rd	Practicing optometry without a license.
2987	464.016 (1)	3rd	Practicing nursing without a license.
2988	465.015 (2)	3rd	Practicing pharmacy without a license.
2989	466.026 (1)	3rd	Practicing dentistry or dental hygiene without a license.
2990	467.201	3rd	Practicing midwifery without a license.
2991	468.366	3rd	Delivering respiratory care services without a license.
2992	483.828 (1)	3rd	Practicing as clinical laboratory personnel without a

597-04187-08

20082158__

2993	483.901 (9)	3rd	license.
2994	484.013 (1) (c)	3rd	Practicing medical physics without a license.
2995	484.053	3rd	Preparing or dispensing optical devices without a prescription.
2996	494.0018 (2)	1st	Dispensing hearing aids without a license.
2997	560.123 (8) (b) 1.	3rd	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
			Failure to report currency or payment instruments exceeding \$300 but

597-04187-08

20082158__

2998	560.125 (5) (a)	3rd	less than \$20,000 by <u>a money services business</u> transmitter.
2999	655.50 (10) (b) 1.	3rd	Money <u>services</u> transmitter business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
3000	775.21 (10) (a)	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
3001			Sexual predator; failure to register; failure to renew driver's license or identification card; other registration violations.

597-04187-08

20082158__

3002	775.21 (10) (b)	3rd	Sexual predator working where children regularly congregate.
3003	775.21 (10) (g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
3004	782.051 (3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
3005	782.07 (1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
3005	782.071	2nd	Killing of a human being or viable

597-04187-08

20082158__

3006	782.072	2nd	<p>fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).</p>
3007	784.045 (1) (a) 1.	2nd	<p>Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).</p>
3008	784.045 (1) (a) 2.	2nd	<p>Aggravated battery; intentionally causing great bodily harm or disfigurement.</p>
3009	784.045 (1) (b)	2nd	<p>Aggravated battery; using deadly weapon.</p>
3010	784.048 (4)	3rd	<p>Aggravated battery; perpetrator aware victim pregnant.</p>
			<p>Aggravated stalking; violation of</p>

597-04187-08

20082158__

			injunction or court order.
3011	784.048 (7)	3rd	Aggravated stalking; violation of court order.
3012	784.07 (2) (d)	1st	Aggravated battery on law enforcement officer.
3013	784.074 (1) (a)	1st	Aggravated battery on sexually violent predators facility staff.
3014	784.08 (2) (a)	1st	Aggravated battery on a person 65 years of age or older.
3015	784.081 (1)	1st	Aggravated battery on specified official or employee.
3016	784.082 (1)	1st	Aggravated battery by detained person on visitor or other detainee.

597-04187-08

20082158__

3017	784.083 (1)	1st	Aggravated battery on code inspector.
3018	790.07 (4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
3019	790.16 (1)	1st	Discharge of a machine gun under specified circumstances.
3020	790.165 (2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
3021	790.165 (3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
3022	790.166 (3)	2nd	Possessing, selling, using, or attempting

597-04187-08

20082158__

3023	790.166 (4)	2nd	to use a hoax weapon of mass destruction.
3024	794.08 (4)	3rd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
3025	796.03	2nd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
3026	800.04 (5) (c) 1.	2nd	Procuring any person under 16 years for prostitution. Lewd or lascivious molestation; victim less than 12 years of age; offender

597-04187-08

20082158__

3027	800.04 (5) (c) 2.	2nd	less than 18 years.
3028	806.01 (2)	2nd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older.
3029	810.02 (3) (a)	2nd	Maliciously damage structure by fire or explosive.
3030	810.02 (3) (b)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
3031	810.02 (3) (d)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
3032	810.02 (3) (e)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
			Burglary of

597-04187-08

20082158__

3033	812.014 (2) (a) 1.	1st	authorized emergency vehicle.
3034	812.014 (2) (b) 2.	2nd	Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
3035	812.014 (2) (b) 3.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
3036	812.014 (2) (b) 4.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft. Property stolen, law enforcement equipment from authorized emergency vehicle.

597-04187-08

20082158__

3037	812.0145 (2) (a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
3038	812.019 (2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
3039	812.131 (2) (a)	2nd	Robbery by sudden snatching.
3040	812.133 (2) (b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
3041	817.234 (8) (a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
3042	817.234 (9)	2nd	Organizing,

597-04187-08

20082158__

3043	817.234 (11) (c)	1st	planning, or participating in an intentional motor vehicle collision.
3044	817.2341 (2) (b) & (3) (b)	1st	Insurance fraud; property value \$100,000 or more.
3045	825.102 (3) (b)	2nd	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
3046	825.103 (2) (b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
			Exploiting an

597-04187-08

20082158__

3047	827.03 (3) (b)	2nd	elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.
3048	827.04 (3)	3rd	Neglect of a child causing great bodily harm, disability, or disfigurement.
3049	837.05 (2)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
3050	838.015	2nd	Giving false information about alleged capital felony to a law enforcement officer.
3051	838.016	2nd	Bribery. Unlawful compensation or reward for official

597-04187-08

20082158__

3052	838.021 (3) (a)	2nd	behavior.
3053	838.22	2nd	Unlawful harm to a public servant.
3054	847.0135 (3)	3rd	Bid tampering. Solicitation of a child, via a computer service, to commit an unlawful sex act.
3055	847.0135 (4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
3056	872.06	2nd	Abuse of a dead human body.
3057	893.13 (1) (c) 1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03 (1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4.) within 1,000 feet of a

597-04187-08

20082158__

3058

893.13 (1) (e) 1. 1st

child care facility,
 school, or state,
 county, or municipal
 park or publicly
 owned recreational
 facility or
 community center.

3059

893.13 (4) (a) 1st

Sell, manufacture,
 or deliver cocaine
 or other drug
 prohibited under s.
 893.03 (1) (a),
 (1) (b), (1) (d),
 (2) (a), (2) (b), or
 (2) (c) 4., within
 1,000 feet of
 property used for
 religious services
 or a specified
 business site.

3060

Deliver to minor
 cocaine (or other s.
 893.03 (1) (a),
 (1) (b), (1) (d),
 (2) (a), (2) (b), or
 (2) (c) 4. drugs).

597-04187-08

20082158__

3061	893.135 (1) (a) 1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
3062	893.135 (1) (b) 1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
3063	893.135 (1) (c) 1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
3064	893.135 (1) (d) 1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
3065	893.135 (1) (e) 1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
	893.135 (1) (f) 1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.

597-04187-08

20082158__

3066	893.135 (1) (g) 1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
3067	893.135 (1) (h) 1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
3068	893.135 (1) (j) 1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
3069	893.135 (1) (k) 2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
3070	896.101 (5) (a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.

597-04187-08

20082158__

3071	896.104 (4) (a) 1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
3072	943.0435 (4) (c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
3073	943.0435 (8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
3074	943.0435 (9) (a)	3rd	Sexual offender; failure to comply with reporting

597-04187-08

20082158__

3075	943.0435 (13)	3rd	requirements.
3076	943.0435 (14)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
3077	944.607 (9)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
3078	944.607 (10) (a)	3rd	Sexual offender; failure to comply with reporting requirements.
3079	944.607 (12)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
			Failure to report or providing false

597-04187-08

20082158__

3080	944.607(13)	3rd	information about a sexual offender; harbor or conceal a sexual offender.
3081	985.4815(10)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
3082	985.4815(12)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
3083	985.4815(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
			Sexual offender; failure to report and reregister; failure to respond

597-04187-08

20082158__

to address
verification.

3084

3085 Section 53. Sections 560.101, 560.102, 560.106, 560.1073,
3086 560.108, 560.112. 560.117, 560.200, 560.202, 560.206, 560.207,
3087 560.301, 560.302, 560.305, 560.306, 560.307, 560.308, 560.401,
3088 560.402, and 560.407, Florida Statutes, are repealed.

3089 Section 54. Except as otherwise expressly provided in this
3090 act, this act shall take effect October 1, 2008.