

20082158e1

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           "affiliated party," "branch office," "cashing,"  
7           "compliance officer," "electronic instrument," "financial  
8           audit report," "foreign affiliate," "licensee,"  
9           "location," "monetary value," "net worth," "outstanding  
10          money transmission," and "stored value"; amending s.  
11          560.104, F.S.; revising provision providing exemptions  
12          from ch. 560, F.S.; amending s. 560.105, F.S.; revising  
13          provisions relating to the powers of the Office of  
14          Financial Regulation and the Financial Services  
15          Commission; amending s. 560.109, F.S.; revising provisions  
16          relating to examinations and investigations conducted by  
17          the office; requiring that the office periodically examine  
18          each licensee and each new licensee within 6 months after  
19          issuing a license; requiring the office to report certain  
20          violations to a criminal investigatory agency; requiring  
21          that the office annually report to the Legislature  
22          information concerning investigations and examinations and  
23          the total amount of fines assessed and collected;  
24          requiring records in a language other than English to be  
25          translated; creating s. 560.1091, F.S.; authorizing the  
26          office to contract with third parties to conduct  
27          examinations; authorizing the commission to adopt rules  
28          relating to who can conduct examinations and the rates  
29          charged; creating s. 560.1092, F.S.; requiring persons

20082158e1

30 examined to pay the expenses of examination as set by rule  
31 of the commission; providing for the deposit of funds  
32 collected from licensees; requiring payment for travel  
33 expenses and living expenses and compensation for persons  
34 making the examinations from such funds or from funds  
35 budgeted for such purposes; creating s. 560.110, F.S.;  
36 providing for record retention by licensees; amending s.  
37 560.111, F.S.; revising the list of prohibited acts by a  
38 money services business; amending s. 560.113, F.S.;  
39 providing for the establishment of a receivership or the  
40 payment of restitution by a person found to have violated  
41 ch. 560, F.S.; amending s. 560.114, F.S.; revising grounds  
42 for the disciplinary actions; creating s. 560.1141, F.S.;  
43 authorizing the commission to adopt disciplinary  
44 guidelines for imposing penalties for violations;  
45 providing for mitigating and aggravating circumstances;  
46 amending s. 560.115, F.S.; revising provisions relating to  
47 the voluntary surrender of a license; amending s. 560.116,  
48 F.S.; revising provisions relating to the granting of  
49 immunity for providing information about alleged  
50 violations of ch. 560, F.S.; amending s. 560.118, F.S.;  
51 revising provisions relating to required reports; deleting  
52 an exemption from the requirement to file an annual  
53 financial report; transferring, renumbering, and amending  
54 s. 560.119, F.S.; revising provisions providing for the  
55 deposit of fees and assessments; amending s. 560.121,  
56 F.S.; revising restriction on access to records held by a  
57 court or the Legislature; amending s. 560.123, F.S.;  
58 revising provisions relating to the Florida Control of

20082158e1

59 Money Laundering in Money Services Business; creating s.  
60 560.1235, F.S.; requiring a licensee to comply with state  
61 and federal anti-money laundering laws and rules; amending  
62 s. 560.124, F.S.; revising provisions relating to sharing  
63 reported information; amending s. 560.125, F.S.; revising  
64 provisions relating to unlicensed activity; amending s.  
65 560.126, F.S.; revising provisions relating to certain  
66 notice requirements by a licensee; amending s. 560.127,  
67 F.S.; revising provisions relating to the control of a  
68 money services business; amending s. 560.128, F.S.;  
69 revising provisions relating to customer contacts and  
70 license display; amending s. 560.129, F.S.; revising  
71 provisions relating to the confidentiality of certain  
72 records; creating s. 560.140, F.S.; providing licensing  
73 standards for a money services business; creating s.  
74 560.141, F.S.; providing for a license application;  
75 creating s. 560.142, F.S.; providing for license renewal;  
76 creating s. 560.143, F.S.; providing for license fees;  
77 amending s. 560.203, F.S.; revising the exemption from  
78 licensure for authorized vendors of a money services  
79 business; amending s. 560.204, F.S.; revising provisions  
80 relating to the requirement for licensure of money  
81 transmitters or sellers of payment instruments under part  
82 II of ch. 560, F.S.; amending s. 560.205, F.S.; providing  
83 additional requirements for a license application;  
84 amending s. 560.208, F.S.; revising provisions relating to  
85 the conduct of a licensee; creating s. 560.2085, F.S.;  
86 providing requirements for authorized vendors; amending s.  
87 560.209, F.S.; revising provisions relating to a

20082158e1

88 licensee's net worth and the filing of a corporate surety  
89 bond; requiring a financial audit report; increasing the  
90 upper limit of the bond; deleting the option of waiving  
91 the bond; amending s. 560.210, F.S.; revising provisions  
92 relating to permissible investments; amending s. 560.211,  
93 F.S.; revising provisions relating to required  
94 recordkeeping under part II of ch. 560, F.S.; amending s.  
95 560.212, F.S.; revising provisions relating to licensee  
96 liability; amending s. 560.213, F.S.; revising provisions  
97 relating information that must be printed on a payment  
98 instrument; amending s. 560.303, F.S.; revising provisions  
99 relating to the licensure of check cashers under part II  
100 of ch. 560, F.S.; amending s. 560.304, F.S.; revising  
101 provisions relating to exemptions from licensure; limiting  
102 the exemption for the payment of instruments below a  
103 certain value and incidental to certain retail sales;  
104 amending s. 560.309, F.S.; revising provisions relating to  
105 the conduct of check cashers; providing additional  
106 requirements; amending s. 560.310, F.S.; revising  
107 requirements for licensee records; specifying the  
108 maintenance of identification records for certain  
109 customers; amending s. 560.402, F.S.; revising definitions  
110 relating to deferred presentment providers; amending s.  
111 560.403, F.S.; revising provisions relating to the  
112 licensing requirements for deferred presentment providers;  
113 amending s. 560.404, F.S.; revising provisions relating to  
114 deferred presentment transactions; amending s. 560.405,  
115 F.S.; revising provisions relating to the redemption or  
116 deposit of a deferred presentment transaction; amending s.

20082158e1

117 560.406, F.S.; revising provisions relating to worthless  
118 checks; amending ss. 499.005, 499.0691, 501.95, 538.03,  
119 896.101, 896.104, and 921.0022, F.S.; conforming cross-  
120 references; repealing s. 560.101, F.S., relating to a  
121 short title; repealing s. 560.102, F.S., relating to  
122 purpose and application; repealing s. 560.106, F.S.,  
123 relating to chapter constructions; repealing s. 560.1073,  
124 F.S., relating to false or misleading statements or  
125 documents; repealing s. 560.108, F.S., relating to  
126 administrative enforcement guidelines; repealing s.  
127 560.112, F.S., relating to disciplinary action procedures;  
128 repealing s. 560.117, F.S., relating to administrative  
129 fines; repealing s. 560.200, F.S., relating to a short  
130 title; repealing s. 560.202, F.S., relating to  
131 definitions; repealing s. 560.206, F.S., relating to the  
132 investigation of applicants; repealing s. 560.207, F.S.,  
133 relating to registration; repealing s. 560.301, F.S.,  
134 relating to a short title; repealing s. 560.302, F.S.,  
135 relating to definitions; repealing s. 560.305, F.S.,  
136 relating to application for registration; repealing s.  
137 560.306, F.S., relating to standards; repealing s.  
138 560.307, F.S., relating to fees; repealing s. 560.308,  
139 F.S., relating to registration; repealing s. 560.401,  
140 F.S., relating to a short title; repealing s. 560.407,  
141 F.S., relating to required records; providing an effective  
142 date.

143  
144 Be It Enacted by the Legislature of the State of Florida:  
145

20082158e1

146 Section 1. Section 560.103, Florida Statutes, is amended to  
147 read:

148 560.103 Definitions.--As used in this chapter, the term ~~the~~  
149 ~~code, unless the context otherwise requires:~~

150 (1) "Affiliated party" means a director, officer,  
151 responsible person, employee, or foreign affiliate of a money  
152 services business, or a person who has a controlling interest in  
153 a money services business as provided in s. 560.127.

154 (2) ~~(1)~~ "Appropriate regulator" means a any state, or  
155 federal, or foreign agency that, ~~including the commission or~~  
156 ~~office, which has been granted state or federal statutory~~  
157 authority to enforce state, federal, or foreign laws related to a  
158 money services business or deferred presentment provider with  
159 ~~regard to the money transmission function.~~

160 (3) ~~(2)~~ "Authorized vendor" means a person designated by a  
161 money services business licensed under part II of this chapter a  
162 registrant to act engage in the business of a money transmitter  
163 on behalf of the licensee the registrant at locations in this  
164 state pursuant to a written contract with the licensee  
165 registrant.

166 (4) "Branch office" means the physical location, other than  
167 the principal place of business, of a money services business  
168 operated by a licensee under this chapter.

169 (5) "Cashing" means providing currency for payment  
170 instruments except for travelers checks.

171 (6) ~~(3)~~ "Check casher" means a person who, ~~for compensation,~~  
172 sells currency in exchange for payment instruments received,  
173 except travelers checks and foreign-drawn payment instruments.

174 ~~(4) "Code" means the "Money Transmitters' Code," consisting~~

20082158e1

175 of:

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

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

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

182 ~~(d) Part IV of this chapter, relating to deferred~~  
183 ~~presentments.~~

184 (7) "Commission" means the Financial Services Commission.

185 (8) "Compliance officer" means the individual in charge of  
186 overseeing, managing, and ensuring that a money services business  
187 is in compliance with all state and federal laws and rules  
188 relating to money services businesses, as applicable, including  
189 all money laundering laws and rules.

190 ~~(5) "Consideration" means and includes any premium charged~~  
191 ~~for the sale of goods, or services provided in connection with~~  
192 ~~the sale of the goods, which is in excess of the cash price of~~  
193 ~~such goods.~~

194 (9) (6) "Currency" means the coin and paper money of the  
195 United States or of any other country which is designated as  
196 legal tender and which circulates and is customarily used and  
197 accepted as a medium of exchange in the country of issuance.  
198 Currency includes United States silver certificates, United  
199 States notes, and Federal Reserve notes. Currency also includes  
200 official foreign bank notes that are customarily used and  
201 accepted as a medium of exchange in a foreign country.

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

203 (10) "Deferred presentment provider" means a person who is

20082158e1

204 licensed under part II or part III of this chapter and has filed  
205 a declaration of intent with the office to engage in deferred  
206 presentment transactions as provided under part IV of this  
207 chapter.

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

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

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

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

232 (13) "Foreign affiliate" means a person located outside



20082158e1

233 this state who has been designated by a licensee to make payments  
234 on behalf of the licensee to persons who reside outside this  
235 state. The term also includes a person located outside of this  
236 state for whom the licensee has been designated to make payments  
237 in this state.

238 ~~(8) "Office" means the Office of Financial Regulation of~~  
239 ~~the commission.~~

240 ~~(14)~~(9) "Foreign currency exchanger" means a person who  
241 exchanges, for compensation, currency of the United States or a  
242 foreign government to currency of another government.

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

248 (15) "Licensee" means a person licensed under this chapter.

249 (16) "Location" means a branch office, mobile location, or  
250 location of an authorized vendor whose business activity is  
251 regulated under this chapter.

252 (17) "Monetary value" means a medium of exchange, whether  
253 or not redeemable in currency.

254 ~~(18)~~(11) "Money services business transmitter" means any  
255 person located in or doing business in this state, from this  
256 state, or into this state from locations outside this state or  
257 country who acts as a payment instrument seller, foreign currency  
258 exchanger, check casher, or money funds transmitter, or deferred  
259 presentment provider.

260 (19) "Money transmitter" means a corporation, limited  
261 liability company, limited liability partnership, or foreign

20082158e1

262 entity qualified to do business in this state which receives  
263 currency, monetary value, or payment instruments for the purpose  
264 of transmitting the same by any means, including transmission by  
265 wire, facsimile, electronic transfer, courier, the Internet, or  
266 through bill payment services or other businesses that facilitate  
267 such transfer within this country, or to or from this country.

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

277 (20) "Net worth" means assets minus liabilities, determined  
278 in accordance with United States generally accepted accounting  
279 principles.

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

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

290 (23) "Outstanding money transmission" means a money

20082158e1

291 transmission to a designated recipient or a refund to a sender  
292 that has not been completed.

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

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

302 ~~(26)-(16)~~ "Payment instrument seller" means a corporation,  
303 limited liability company, limited liability partnership, or  
304 foreign entity qualified to do business in this state which  
305 ~~person who~~ sells a payment instrument.

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

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

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

318 ~~(29)-(20)~~ "Sells ~~Sell~~" means to sell, issue, provide, or  
319 deliver.

20082158e1

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

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

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

333           ~~(b) Failure to adhere to the provisions of 31 C.F.R. ss.~~  
334 ~~103.20, 103.22, 103.27, 103.28, 103.29, 103.33, 103.37, 103.41,~~  
335 ~~and 103.125 as they existed on March 31, 2004.~~

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

341           Section 2. Section 560.104, Florida Statutes, is amended to  
342 read:

343           560.104 Exemptions.--The following entities are exempt from  
344 the provisions of this chapter ~~the code~~:

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

20082158e1

349 state or the United States, ~~provided that they do not sell~~  
350 ~~payment instruments through authorized vendors who are not such~~  
351 ~~entities.~~

352 (2) The United States or any agency or department,  
353 ~~instrumentality, or agency~~ thereof.

354 (3) This state or any political subdivision of this state.  
355 Section 3. Section 560.105, Florida Statutes, is amended to  
356 read:

357 560.105 Supervisory powers; rulemaking.--

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

360 (a) Supervise ~~Supervision over~~ all money services  
361 businesses transmitters and their authorized vendors.

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

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

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

374 (a) ~~(3)~~ The commission may adopt rules ~~pursuant to ss.~~  
375 ~~120.536(1) and 120.54~~ requiring electronic submission of any  
376 forms, documents, or fees required by this chapter, which must  
377 ~~code if such rules~~ reasonably accommodate technological or

20082158e1

378 financial hardship. ~~The commission may prescribe by rule~~  
379 ~~requirements~~ and provide procedures for obtaining an exemption  
380 due to a technological or financial hardship.

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

385 Section 4. Section 560.109, Florida Statutes, is amended to  
386 read:

387 560.109 Examinations and investigations, ~~subpoenas,~~  
388 ~~hearings, and witnesses.--~~

389 ~~(1)~~ The office may conduct examinations and make  
390 investigations ~~or examinations as prescribed in s. 560.118,~~  
391 ~~within or outside this state, which it deems necessary in order~~  
392 ~~to determine whether a person has violated any provision of this~~  
393 ~~chapter and related rules the code, the rules adopted by the~~  
394 ~~commission pursuant to the code, or of any practice or conduct~~  
395 that creates the likelihood of material loss, insolvency, or  
396 dissipation of the assets of a money services business or  
397 otherwise materially prejudices the interests of their customers  
398 ~~31 C.F.R. ss. 103.20, 103.22, 103.27, 103.28, 103.29, 103.33,~~  
399 ~~103.37, 103.41, and 103.125 as they existed on March 31, 2004.~~

400 (1) The office may examine each licensee as often as is  
401 warranted for the protection of customers and in the public  
402 interest, but at least once every 5 years. A new licensee shall  
403 be examined within 6 months after the issuance of the license.  
404 The office shall provide at least 15 days' notice to a money  
405 services business, its authorized vendor, or license applicant  
406 before conducting an examination or investigation. However, the

20082158e1

407 office may conduct an examination or investigation of a money  
408 services business, authorized vendor, or affiliated party at any  
409 time and without advance notice if the office suspects that the  
410 money services business, authorized vendor, or affiliated party  
411 has violated or is about to violate any provisions of this  
412 chapter or any criminal laws of this state or of the United  
413 States.

414 (2) The office may conduct a joint or concurrent  
415 examination with any state or federal regulatory agency and may  
416 furnish a copy of all examinations to an appropriate regulator if  
417 the regulator agrees to abide by the confidentiality provisions  
418 in chapter 119 and this chapter. The office may also accept an  
419 examination from any appropriate regulator or, pursuant to s.  
420 560.1091, from an independent third party that has been approved  
421 by the office.

422 (3) Persons subject to this chapter who are examined or  
423 investigated shall make available to the office all books,  
424 accounts, documents, files, information, assets, and matters that  
425 are in their immediate possession or control and that relate to  
426 the subject of the examination or investigation.

427 (a) Records not in their immediate possession must be made  
428 available to the office within 3 days after actual notice is  
429 served.

430 (b) Upon notice, the office may require that records  
431 written in a language other than English be accompanied by a  
432 certified translation at the expense of the licensee. For  
433 purposes of this section, the term "certified translation" means  
434 a document translated by a person who is currently certified as a  
435 translator by the American Translators Association or other

20082158e1

436 organization designated by rule.

437 ~~(4)(2)(a)~~ In the course of or in connection with any  
438 examination or an investigation conducted by the office:

439 (a) An employee of the office holding the title and  
440 position of a pursuant to the provisions of subsection (1) or an  
441 investigation or examination in connection with any application  
442 to the office for the organization or establishment of a money  
443 transmitter business, or in connection with an examination or  
444 investigation of a money transmitter or its authorized vendor,  
445 the office, or any of its officers holding no lesser title and  
446 position than financial examiner or analyst, financial  
447 investigator, or attorney at law, or higher may:

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

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

462 (c) ~~In connection with any such investigation or~~  
463 ~~examination,~~ The office may allow ~~permit~~ a person to file a  
464 statement in writing, under oath, or otherwise as the office



20082158e1

465 ~~determines,~~ as to facts and circumstances specified by the  
466 office.

467 (5)(3)(a) ~~If a person does not comply~~ In the event of  
468 ~~noncompliance~~ with a subpoena issued or caused to be issued by  
469 the office pursuant to this section, the office may petition a  
470 court of competent jurisdiction ~~the circuit court of the county~~  
471 ~~in which the person subpoenaed resides or has its principal place~~  
472 ~~of business~~ for an order requiring the subpoenaed person to  
473 appear and testify and to produce such ~~books,~~ records, ~~and~~  
474 ~~documents~~ as ~~are~~ specified in the ~~such~~ subpoena duces tecum. The  
475 office is entitled to the summary procedure provided in s.  
476 51.011, and the court shall advance the cause on its calendar.

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

481 (b)(c) At a ~~any~~ hearing on the ~~any such~~ petition, the  
482 person subpoenaed, or any person whose interests are ~~will be~~  
483 substantially affected by the investigation, examination, or  
484 subpoena, may appear and object to the subpoena and to the  
485 granting of the petition. The court may make any order that  
486 justice requires ~~in order~~ to protect a party or other person and  
487 her or his personal and property rights, including, but not  
488 limited to, protection from ~~annoyance, embarrassment,~~ oppression,  
489 ~~or~~ undue burden, or expense.

490 (c)(d) Failure to comply with an order granting, in whole  
491 or in part, a petition for enforcement of a subpoena is a  
492 contempt of the court.

493 (6)(4) Witnesses are entitled to the same fees and mileage

20082158e1

494 ~~to which they would be entitled by law for attending as witnesses~~  
495 ~~in the circuit court, except that no fees or mileage is~~ not  
496 ~~allowed for the testimony of a person taken at the person's~~  
497 ~~principal office or residence.~~

498 (7) ~~(5)~~ Reasonable and necessary costs incurred by the  
499 office or third parties authorized by the office in connection  
500 ~~and payable to persons involved with examinations or~~  
501 ~~investigations may be assessed against any person~~ subject to this  
502 chapter on the basis of actual costs incurred. Assessable  
503 expenses include, but are not limited to, ~~+~~ expenses for:  
504 interpreters; certified translations of documents into the  
505 English language required by this chapter or related rules;  
506 ~~expenses for~~ communications; expenses for legal representation;  
507 ~~expenses for~~ economic, legal, or other research, analyses, and  
508 testimony; and fees and expenses for witnesses. The failure to  
509 reimburse the office is a ground for denial of a license ~~the~~  
510 ~~registration~~ application, denial of a license renewal, or for  
511 revocation of any approval thereof. Except for examinations  
512 authorized under s. 560.109, No such costs may not ~~shall~~ be  
513 assessed against a person unless the office determines ~~has~~  
514 ~~determined~~ that the person has operated or is operating in  
515 violation of this chapter ~~the code.~~

516 (8) The office shall provide a written report of any  
517 violation of law that may be a felony to the appropriate criminal  
518 investigatory agency having jurisdiction with respect to such  
519 violation.

520 (9) The office shall prepare and submit an annual report to  
521 the President of the Senate and the Speaker of the House of  
522 Representatives beginning January 1, 2009, through January 1,

20082158e1

523 2014, which includes:

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

527 (b) The total number of initial referrals received from  
528 another state or federal agency, the total number of examinations  
529 and investigations opened as a result of referrals, and the  
530 disposition of each of those cases.

531 (c) The number of examinations or investigations undertaken  
532 by the office which were not the result of a referral from  
533 another state agency or a federal agency.

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

537 Section 5. Section 560.1091, Florida Statutes, is created  
538 to read:

539 560.1091 Contracted examinations.--The office may contract  
540 with third parties to conduct examinations under this chapter.

541 (1) The person or firm selected by the office may not have  
542 a conflict of interest that might affect its ability to  
543 independently perform its responsibilities with respect to an  
544 examination.

545 (2) An examination under this section may be conducted by  
546 an independent certified public accountant, information  
547 technology specialist, or other specialist specified by rule who  
548 meets criteria specified by rule. The rules shall also provide  
549 that:

550 (a) The rates charged to the licensee examined are  
551 consistent with rates charged by other firms in similar

20082158e1

552 professions and are comparable with the rates charged for  
553 comparable examinations.

554 (b) The licensee make payment for the examination pursuant  
555 to s. 560.1092 and in accordance with the rates and terms  
556 established by the office and the person or firm performing the  
557 examination.

558 Section 6. Section 560.1092, Florida Statutes, is created  
559 to read:

560 560.1092 Examination expenses.--

561 (1) Each licensee examined shall pay to the office the  
562 expenses of the examination at the rates adopted by the  
563 commission by rule. Such expenses shall include actual travel  
564 expenses, reasonable living expense allowance, compensation of  
565 the examiner or other person making the examination, and  
566 necessary attendant administrative costs of the office directly  
567 related to the examination. Travel expense and living expense  
568 allowance are limited to those expenses incurred on account of  
569 the examination and shall be paid by the examined licensee  
570 together with compensation upon presentation by the office to the  
571 licensee of a detailed account of the charges and expenses after  
572 a detailed statement has been filed by the examiner and approved  
573 by the office.

574 (2) All moneys collected from licensees for examinations  
575 shall be deposited into the Regulatory Trust Fund, and the office  
576 may make deposits into such fund from moneys appropriated for the  
577 operation of the office.

578 (3) Notwithstanding s. 112.061, the office may pay to the  
579 examiner or person making the examination out of the trust fund  
580 the actual travel expenses, reasonable living expense allowance,

20082158e1

581 and compensation in accordance with the statement filed with the  
582 office by the examiner or other person, as provided in subsection  
583 (1) upon approval by the office.

584 (4) When not examining a licensee, the travel expenses, per  
585 diem, and compensation for the examiners and other persons  
586 employed to make examinations, if approved, shall be paid out of  
587 moneys budgeted for such purpose as regular employees, and  
588 reimbursement for travel expenses and per diem shall be at rates  
589 as provided in s. 112.061.

590 Section 7. Section 560.110, Florida Statutes, is created to  
591 read:

592 560.110 Records retention.--Each licensee and its  
593 authorized vendors must maintain all books, accounts, documents,  
594 files, and information necessary for determining compliance with  
595 this chapter and related rules for 5 years unless a longer period  
596 is required by other state or federal law.

597 (1) The records required under this chapter may be  
598 maintained by the licensee at any location identified in its  
599 license application or by amendment to the application. The  
600 licensee must make such records available to the office for  
601 examination and investigation in this state within 3 business  
602 days after receipt of a written request.

603 (2) The original of any record of a licensee or authorized  
604 vendor includes a record stored or transmitted by electronic,  
605 computerized, mechanized, or other information storage or  
606 retrieval or transmission system or device that can generate,  
607 regenerate, or transmit the precise data or other information  
608 comprising the record. An original also includes the visible data  
609 or other information so generated, regenerated, or transmitted if

20082158e1

610 it is legible or can be made legible by enlargement or other  
611 process.

612 (3) The commission may adopt rules to administer this  
613 section and ss. 560.211 and 560.310. In adopting rules, the  
614 commission shall take into consideration federal regulations,  
615 rulings, and guidance issued by an appropriate regulator.

616 (4) Any person who willfully fails to comply with this  
617 section or ss. 560.211 and 560.310 commits a felony of the third  
618 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
619 775.084.

620 Section 8. Section 560.111, Florida Statutes, is amended to  
621 read:

622 560.111 Prohibited acts ~~and practices~~.--

623 (1) A money services business, authorized vendor, or  
624 affiliated party may not ~~It is unlawful for any money transmitter~~  
625 ~~or money transmitter-affiliated party to:~~

626 (a) Receive or possess ~~itself of~~ any property except  
627 ~~otherwise than~~ in payment of a just demand, and, with intent to  
628 deceive or defraud, to omit to make or to cause to be made a full  
629 and true entry thereof in its books and accounts, or to concur in  
630 omitting to make any material entry thereof.~~;~~

631 (b) Embezzle, abstract, or misapply any money, property, or  
632 thing of value belonging to the money services business, an ~~of~~  
633 ~~the money transmitter or authorized vendor, or customer~~ with  
634 intent to deceive or defraud. such money transmitter or  
635 ~~authorized vendor;~~

636 (c) Make any false entry in its books, accounts, reports,  
637 files, or documents ~~any book, report, or statement of such money~~  
638 ~~transmitter or authorized vendor~~ with intent to deceive or

20082158e1

639 ~~defraud such money transmitter, authorized vendor, or another~~  
640 ~~person, or with intent to deceive the office, any appropriate~~  
641 ~~regulator ~~other state or federal regulatory agency,~~ or any~~  
642 ~~authorized third party representative appointed by the office to~~  
643 ~~examine or investigate the affairs of the such money services~~  
644 ~~business transmitter or authorized vendor.~~

645 (d) Engage in an act that violates 18 U.S.C. s. 1956, 18  
646 U.S.C. s. 1957, 18 U.S.C. s. 1960, 31 U.S.C. s. 5324, or any  
647 other law, rule, or regulation of another state or ~~of~~ the United  
648 States relating to a money services business, deferred  
649 presentment provider, ~~the business of money transmission~~ or usury  
650 which may cause the denial or revocation of a money services  
651 business or deferred presentment provider transmitter license or  
652 the equivalent registration in that such jurisdiction.

653 (e) File with the office, sign as a duly authorized  
654 representative, or deliver or disclose, by any means, to the  
655 office or any of its employees any examination report, report of  
656 condition, report of income and dividends, audit, account,  
657 statement, file, or document known by it to be fraudulent or  
658 false as to any material matter.

659 (f) Place among the assets of a money services business  
660 ~~such money transmitter~~ or authorized vendor any note, obligation,  
661 or security that the money services business transmitter or  
662 authorized vendor does not own or is known to be ~~that to the~~  
663 ~~person's knowledge is~~ fraudulent or otherwise worthless, or ~~for~~  
664 ~~any such person~~ to represent to the office that any note,  
665 obligation, or security ~~carried as an asset of such money~~  
666 ~~transmitter or authorized vendor~~ is the property of the money  
667 services business transmitter or authorized vendor and is genuine

20082158e1

668 if it is known to be ~~such person that such representation is~~  
669 ~~false or that such note, obligation, or security is~~ fraudulent or  
670 otherwise worthless.

671 (2) A ~~It is unlawful for any person may not~~ to knowingly  
672 execute, or attempt to execute, a scheme or artifice to defraud a  
673 money services business transmitter or authorized vendor, or ~~to~~  
674 obtain ~~any of~~ the moneys, funds, credits, assets, securities, or  
675 other property owned by, or under the custody or control of, a  
676 money services business transmitter or authorized vendor, by  
677 means of false or fraudulent pretenses, representations, or  
678 promises.

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

682 (4) Any person who willfully violates any provision of s.  
683 560.403, s. 560.404, s. 560.405, or s. 560.407 commits a felony  
684 of the third degree, punishable as provided in s. 775.082, s.  
685 775.083, or s. 775.084.

686 Section 9. Section 560.113, Florida Statutes, is amended to  
687 read:

688 560.113 Injunctions; receiverships; restitution. ~~Whenever~~  
689 ~~a violation of the code is threatened or impending and such~~  
690 ~~violation will cause substantial injury to any person, the~~  
691 ~~circuit court has jurisdiction to hear any complaint filed by the~~  
692 ~~office and, upon proper showing, to issue an injunction~~  
693 ~~restraining such violation or granting other such appropriate~~  
694 ~~relief.~~

695 (1) If the office determines that any person has engaged in  
696 or is about to engage in any action that is a violation of this



20082158e1

697 chapter or related rules, the office may, in addition to or in  
698 lieu of other remedies, bring an action on behalf of the state in  
699 the circuit court against the person and any other person acting  
700 in concert with such person to enjoin such person from engaging  
701 in such act. The office may apply for, and on due showing be  
702 entitled to have issued, the court's subpoena requiring the  
703 appearance of the person and her or his employees, associated  
704 persons, or agents and the production of any documents, books, or  
705 records that may appear necessary for the hearing of the  
706 petition, and to testify or give evidence concerning the acts  
707 complained of.

708 (2) In addition to, or in lieu of, the enforcement of a  
709 temporary restraining order, temporary injunction, or permanent  
710 injunction against the person, the court may, upon application of  
711 the office, impound and appoint a receiver or administrator for  
712 the property, assets, and business of the defendant, including,  
713 but not limited to, any related books, records, documents, or  
714 papers. The receiver or administrator shall have all powers and  
715 duties conferred by the court as to the custody, collection,  
716 administration, winding up, and liquidation of the property and  
717 business. The court may issue orders and decrees staying all  
718 pending suits and enjoining any further suits affecting the  
719 receiver's or administrator's custody or possession of the  
720 property, assets, and business or may, with the consent of the  
721 presiding judge of the circuit, require that all such suits be  
722 assigned to the judge appointing the receiver or administrator.

723 (3) In addition to, or in lieu of, any other remedies  
724 provided under this chapter, the office may apply to the court  
725 hearing the matter for an order directing the defendant to make

20082158e1

726 restitution of those sums shown by the office to have been  
727 obtained in violation of this chapter. Such restitution shall, at  
728 the option of the court, be payable to the administrator or  
729 receiver appointed under this section or directly to the persons  
730 whose assets were obtained in violation of this chapter.

731 Section 10. Section 560.114, Florida Statutes, is amended  
732 to read:

733 560.114 Disciplinary actions; penalties.--

734 (1) The following actions by a money services business,  
735 authorized vendor, or affiliated party transmitter or money  
736 transmitter-affiliated party are violations of the code and  
737 constitute grounds for the issuance of a cease and desist order,  
738 the issuance of a removal order, the denial, ~~of a registration~~  
739 application or the suspension, or revocation of a license any  
740 registration previously issued pursuant to the code, or the  
741 taking of any other action within the authority of the office  
742 pursuant to this chapter the code:

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

746 (b) Fraud, misrepresentation, deceit, or gross negligence  
747 in any transaction by a involving money services business  
748 transmission, regardless of reliance thereon by, or damage to, a  
749 money transmitter customer.

750 (c) Fraudulent misrepresentation, circumvention, or  
751 concealment of any matter that must required to be stated or  
752 furnished to a money transmitter customer pursuant to this  
753 chapter the code, regardless of reliance thereon by, or damage  
754 to, such customer.

20082158e1

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

756 (e) Failure to maintain, preserve, ~~and~~ keep available for  
757 examination, and produce all books, accounts, files, or other  
758 documents required by this chapter or related rules or orders ~~the~~  
759 ~~code, by any rule or order adopted pursuant to the code, by 31~~  
760 C.F.R. ss. 103.20, 103.22, 103.23, 103.27, 103.28, 103.29,  
761 103.33, 103.37, 103.41, and 103.125 ~~as they existed on March 31,~~  
762 ~~2004,~~ or by any agreement entered into with the office.

763 (f) Refusing to allow ~~Refusal to permit~~ the examination or  
764 inspection of books, accounts, files, or other documents ~~and~~  
765 ~~records in an investigation or examination by the office,~~  
766 pursuant to this chapter ~~the provisions of the code,~~ or to comply  
767 with a subpoena issued by the office.

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

772 (h) Engaging in an act prohibited under ~~or practice~~  
773 ~~proscribed by s. 560.111.~~

774 (i) Insolvency ~~or operating in an unsafe and unsound~~  
775 ~~manner.~~

776 (j) Failure by a money services business ~~transmitter~~ to  
777 remove an affiliated ~~a money transmitter-affiliated~~ party after  
778 the office has issued and served upon the money services business  
779 ~~transmitter~~ a final order setting forth a finding that the  
780 affiliated ~~money transmitter-affiliated~~ party has violated a ~~any~~  
781 provision of this chapter ~~the code.~~

782 (k) Making a ~~any~~ material misstatement, ~~or~~  
783 misrepresentation, or omission ~~or committing any fraud~~ in an

20082158e1

784 ~~initial or renewal~~ application for licensure, any amendment to  
785 such application, or application for the appointment of an  
786 authorized vendor registration.

787 (l) Committing any act that results ~~resulting~~ in a license  
788 ~~an application for registration, or a registration~~ or its  
789 equivalent, to practice any profession or occupation being  
790 denied, suspended, revoked, or otherwise acted against by a  
791 licensing ~~registering~~ authority in any jurisdiction ~~or a finding~~  
792 ~~by an appropriate regulatory body of engaging in unlicensed~~  
793 ~~activity as a money transmitter within any jurisdiction.~~

794 (m) Being the subject of final agency action or its  
795 equivalent, issued by an appropriate regulator, for engaging in  
796 unlicensed activity as a money services business or deferred  
797 presentment provider in any jurisdiction.

798 (n) ~~(m)~~ Committing any act resulting in a license  
799 ~~registration~~ or its equivalent, ~~or an application for~~  
800 ~~registration,~~ to practice any profession or occupation being  
801 denied, suspended, revoked, or otherwise acted against by a  
802 licensing ~~registering~~ authority in any jurisdiction for a  
803 violation of 18 U.S.C. s. 1956, 18 U.S.C. s. 1957, 18 U.S.C. s.  
804 1960, 31 U.S.C. s. 5324, or any other law ~~or,~~ ~~rule,~~ ~~or regulation~~  
805 of another state or of the United States relating to a money  
806 services business, deferred presentment provider, ~~the business of~~  
807 ~~money transmission~~ or usury that ~~which~~ may cause the denial,  
808 suspension, or revocation of a money services business or  
809 deferred presentment provider ~~transmitter~~ license or its  
810 equivalent ~~or registration~~ in such jurisdiction.

811 (o) ~~(n)~~ Having been convicted of ~~or found guilty of,~~ or  
812 entered a plea of ~~having pleaded~~ guilty or nolo contendere to,

20082158e1

813 any felony or crime punishable by imprisonment of 1 year or more  
814 under the law of any state or ~~of~~ the United States which involves  
815 fraud, moral turpitude, or dishonest dealing, regardless of  
816 adjudication without regard to whether a judgment of conviction  
817 has been entered by the court.

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

823 (q) ~~(p)~~ Having been convicted of ~~or found guilty of~~, or  
824 entered a plea of having pleaded guilty or nolo contendere to,  
825 misappropriation, conversion, or unlawful withholding of moneys  
826 belonging that belong to others, regardless of adjudication and  
827 were received in the conduct of the business of the money  
828 transmitter.

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

836 (s) ~~(r)~~ Aiding, assisting, procuring, advising, or abetting  
837 any person in violating a provision of this chapter ~~code~~ or any  
838 order or rule of the office or commission.

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

841 (u) Failing to pay a fine assessed by the office within 30

20082158e1

842 days after the due date as stated in a final order.

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

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

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

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

851 (w)~~(\*)~~ Engaging or advertising engagement in the business  
852 of a money services business or deferred presentment provider  
853 transmitter without a license registration, unless the person is  
854 exempted from licensure ~~the registration requirements of the~~  
855 ~~code.~~

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

860 (y) Violations of 31 C.F.R. ss. 103.20, 103.22, 103.23,  
861 103.27, 103.28, 103.29, 103.33, 103.37, 103.41, and 103.125, and  
862 United States Treasury Interpretative Release 2004-1.

863 (z) Any practice or conduct that creates the likelihood of  
864 a material loss, insolvency, or dissipation of assets of a money  
865 services business or otherwise materially prejudices the  
866 interests of its customers.

867 (2) The office may immediately suspend the license of any  
868 money services business if the money services business fails to  
869 provide to the office, upon written request, any of the records  
870 required by ss. 560.123, 560.1235, 560.211, and 560.310. The

20082158e1

871 suspension may be rescinded if the licensee submits the requested  
872 records to the office. For purposes of s. 120.60(6), failure to  
873 provide any of the above-mentioned records constitutes immediate  
874 and serious danger to the public health, safety, and welfare.

875 (3) The office may deny licensure if the applicant or an  
876 affiliated party is the subject of a pending criminal prosecution  
877 or governmental enforcement action in any jurisdiction until the  
878 conclusion of the prosecution or action.

879 (4)~~(2)~~ The office may issue a cease and desist order or  
880 removal order, suspend or revoke a license any previously issued  
881 registration, or take any other action within the authority of  
882 the office against a licensee money transmitter based on any fact  
883 or condition that exists and that, if it had existed or been  
884 known to exist at the time of license application the money  
885 transmitter applied for registration, would have been grounds for  
886 license denial of registration.

887 (5)~~(3)~~ A Each money services business licensed under part  
888 II of this chapter transmitter is responsible for any act of its  
889 authorized vendors if the money services business transmitter  
890 should have known of the act or had if the money transmitter has  
891 actual knowledge that such act is a violation of this chapter,  
892 the code and the money services business transmitter willfully  
893 allowed the such act to continue. Such responsibility is limited  
894 to conduct engaged in by the authorized vendor pursuant to the  
895 authority granted to it by the money services business  
896 transmitter.

897 (6)~~(4)~~ If a license registration granted under this chapter  
898 code expires or is surrendered by the licensee registrant during  
899 the pendency of an administrative action under this code, the

20082158e1

900 proceeding may continue as if the license is ~~registration were~~  
901 still in effect.

902 (7) The office may, in addition to or in lieu of the  
903 denial, suspension, or revocation of a license, impose a fine of  
904 at least \$1,000 but not more than \$10,000 for each violation of  
905 this chapter.

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

910 Section 11. Section 560.1141, Florida Statutes, is created  
911 to read:

912 560.1141 Disciplinary guidelines.--

913 (1) The commission shall adopt by rule disciplinary  
914 guidelines applicable to each ground for disciplinary action that  
915 may be imposed by the office.

916 (2) The disciplinary guidelines shall specify a meaningful  
917 range of designated penalties based upon the severity and  
918 repetition of specific offenses and that distinguish minor  
919 violations from those that endanger the public health, safety, or  
920 welfare; that provide reasonable and meaningful notice to the  
921 public of likely penalties that may be imposed for proscribed  
922 conduct; and that ensure that such penalties are imposed in a  
923 consistent manner by the office.

924 (3) The commission shall adopt by rule mitigating and  
925 aggravating circumstances that allow the office to impose a  
926 penalty other than that provided for in the guidelines, and for  
927 variations and a range of penalties permitted under such  
928 circumstances.



20082158e1

929 Section 12. Section 560.115, Florida Statutes, is amended  
930 to read:

931 560.115 Surrender of license registration.--A licensee ~~Any~~  
932 ~~money transmitter registered pursuant to the code~~ may voluntarily  
933 surrender its license registration at any time by giving written  
934 notice to the office.

935 Section 13. Section 560.116, Florida Statutes, is amended  
936 to read:

937 560.116 Civil immunity.--Any person having reason to  
938 believe that a provision of this chapter ~~the code~~ is being  
939 violated, ~~or~~ has been violated, or is about to be violated, may  
940 file a complaint with the office setting forth the details of the  
941 alleged violation. Such person is immune ~~An Immunity~~ from civil  
942 liability ~~is hereby granted to any person who furnishes such~~  
943 ~~information,~~ unless the information provided is false and has  
944 been provided ~~the person providing the information does so~~ with  
945 reckless disregard for the truth.

946 Section 14. Section 560.118, Florida Statutes, is amended  
947 to read:

948 560.118 ~~Examinations, Reports, and internal audits;~~  
949 ~~penalty.--~~

950 (1) (a) ~~The office may conduct an examination of a money~~  
951 ~~transmitter or authorized vendor by providing not less than 15~~  
952 ~~days' advance notice to the money transmitter or authorized~~  
953 ~~vendor. However, if the office suspects that the money~~  
954 ~~transmitter or authorized vendor has violated any provisions of~~  
955 ~~this code or any criminal laws of this state or of the United~~  
956 ~~States or is engaging in an unsafe and unsound practice, the~~  
957 ~~office may, at any time without advance notice, conduct an~~

20082158e1

958 ~~examination of all affairs, activities, transactions, accounts,~~  
959 ~~business records, and assets of any money transmitter or any~~  
960 ~~money transmitter-affiliated party for the protection of the~~  
961 ~~public. For the purpose of examinations, the office may~~  
962 ~~administer oaths and examine a money transmitter or any of its~~  
963 ~~affiliated parties concerning their operations and business~~  
964 ~~activities and affairs. The office may accept an audit or~~  
965 ~~examination from any appropriate regulatory agency or from an~~  
966 ~~independent third party with respect to the operations of a money~~  
967 ~~transmitter or an authorized vendor. The office may also make a~~  
968 ~~joint or concurrent examination with any state or federal~~  
969 ~~regulatory agency. The office may furnish a copy of all~~  
970 ~~examinations made of such money transmitter or authorized vendor~~  
971 ~~to the money transmitter and any appropriate regulatory agency~~  
972 ~~provided that such agency agrees to abide by the confidentiality~~  
973 ~~provisions as set forth in chapter 119.~~

974 ~~(b) Persons subject to this chapter who are examined shall~~  
975 ~~make available to the office or its examiners the accounts,~~  
976 ~~records, documents, files, information, assets, and matters which~~  
977 ~~are in their immediate possession or control and which relate to~~  
978 ~~the subject of the examination. Those accounts, records,~~  
979 ~~documents, files, information, assets, and matters not in their~~  
980 ~~immediate possession shall be made available to the office or the~~  
981 ~~office's examiners within 10 days after actual notice is served~~  
982 ~~on such persons.~~

983 ~~(c) The audit of a money transmitter required under this~~  
984 ~~section may be performed by an independent third party that has~~  
985 ~~been approved by the office or by a certified public accountant~~  
986 ~~authorized to do business in the United States. The examination~~

20082158e1

987 ~~of a money transmitter or authorized vendor required under this~~  
988 ~~section may be performed by an independent third party that has~~  
989 ~~been approved by the office or by a certified public accountant~~  
990 ~~authorized to do business in the United States. The cost of such~~  
991 ~~an independent examination or audit shall be directly borne by~~  
992 ~~the money transmitter or authorized vendor.~~

993 ~~(2)(a) Annual financial audit reports must that are~~  
994 ~~required to be filed with the office pursuant to this chapter or~~  
995 ~~related rules under the code or any rules adopted thereunder must~~  
996 ~~be audited by an independent third party that has been approved~~  
997 ~~by the office or by a certified public accountant authorized to~~  
998 ~~do business in the United States. The licensee money transmitter~~  
999 ~~or authorized vendor shall directly bear the cost of the audit.~~  
1000 ~~This paragraph does not apply to any seller of payment~~  
1001 ~~instruments who can prove to the satisfaction of the office that~~  
1002 ~~it has a combined total of fewer than 50 employees and authorized~~  
1003 ~~vendors or that its annual payment instruments issued from its~~  
1004 ~~activities as a payment instrument seller are less than \$200,000.~~

1005 ~~(2)(b) Each licensee must submit The commission may, by~~  
1006 ~~rule, require each money transmitter or authorized vendor to~~  
1007 ~~submit quarterly reports to the office in a format and include~~  
1008 ~~information as specified by rule. The rule ~~commission~~ may require~~  
1009 ~~the that each report to contain a declaration by an officer, or~~  
1010 ~~any other responsible person authorized to make such declaration,~~  
1011 ~~that the report is true and correct to the best of her or his~~  
1012 ~~knowledge and belief. Such report must include such information~~  
1013 ~~as the commission by rule requires for that type of money~~  
1014 ~~transmitter.~~

1015 ~~(c) The office may levy an administrative fine of up to~~

20082158e1

1016 ~~\$100 per day for each day the report is past due, unless it is~~  
1017 ~~excused for good cause. In excusing any such administrative fine,~~  
1018 ~~the office may consider the prior payment history of the money~~  
1019 ~~transmitter or authorized vendor.~~

1020 ~~(3) Any person who willfully violates this section or fails~~  
1021 ~~to comply with any lawful written demand or order of the office~~  
1022 ~~made under this section commits a felony of the third degree,~~  
1023 ~~punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

1024 Section 15. Section 560.119, Florida Statutes, is  
1025 transferred, renumbered as section 560.144, Florida Statutes, and  
1026 amended to read:

1027 560.144 ~~560.119~~ Deposit of fees and assessments.--License  
1028 ~~The~~ application fees, license ~~registration~~ renewal fees, late  
1029 payment penalties, civil penalties, administrative fines, and  
1030 other fees, costs, or penalties provided for in this chapter ~~the~~  
1031 ~~code shall, in all cases,~~ be paid directly to the office, which  
1032 shall deposit such proceeds into the Regulatory Trust Fund, and  
1033 use the proceeds to pay the costs of the office as necessary to  
1034 carry out its responsibilities under this chapter. ~~Each year, the~~  
1035 ~~Legislature shall appropriate from the trust fund to the office~~  
1036 ~~sufficient moneys to pay the office's costs for administration of~~  
1037 ~~the code. The Regulatory Trust Fund is subject to the service~~  
1038 ~~charge imposed pursuant to chapter 215.~~

1039 Section 16. Section 560.121, Florida Statutes, is amended  
1040 to read:

1041 560.121 Access to records; record retention; penalties  
1042 ~~limited restrictions upon public access.--~~

1043 (1)(a) Orders of courts or of administrative law judges for  
1044 the production of confidential records or information must ~~shall~~

20082158e1

1045 provide for inspection in camera by the court or the  
1046 administrative law judge; and, if ~~after~~ the court or  
1047 administrative law judge determines ~~has made a determination~~ that  
1048 the documents requested are relevant or would likely lead to the  
1049 discovery of admissible evidence, ~~said documents shall be subject~~  
1050 ~~to further orders by~~ the court or the administrative law judge  
1051 must issue further orders to protect the confidentiality of the  
1052 documents ~~thereof~~. Any order directing the release of information  
1053 is ~~shall be~~ immediately reviewable, and a petition by the office  
1054 for review of the ~~such~~ order shall automatically stay further  
1055 proceedings in the trial court or the administrative hearing  
1056 until the disposition of the ~~such~~ petition by the reviewing  
1057 court. ~~If any other party files such~~ A petition for review of the  
1058 order filed by any other party shall, ~~it will~~ operate as a stay  
1059 of the ~~such~~ proceedings only upon order of the reviewing court.

1060 (2) ~~(b)~~ Confidential records and information furnished  
1061 pursuant to a legislative subpoena must ~~shall~~ be kept  
1062 confidential ~~by the legislative body or committee which receives~~  
1063 ~~the records or information,~~ except in cases ~~a case~~ involving the  
1064 investigation of charges against a public official subject to  
1065 impeachment or removal, and then disclosure of such information  
1066 shall be only to the extent determined to be necessary by the  
1067 legislative body or committee ~~to be necessary~~.

1068 (3) ~~(2)~~ ~~The commission may prescribe by rule the minimum~~  
1069 ~~information that must be shown in the books, accounts, records,~~  
1070 ~~and documents of licensees for purposes of enabling the office to~~  
1071 ~~determine the licensee's compliance with this chapter. In~~  
1072 ~~addition, the commission may prescribe by rule requirements for~~  
1073 ~~the destruction of books, accounts, records, and documents~~

20082158e1

1074 ~~retained by the licensee after completion of the time period~~  
1075 ~~specified in this subsection.~~ Examination reports, investigatory  
1076 records, applications, and related information compiled by the  
1077 office, or photographic copies thereof, must ~~shall~~ be retained by  
1078 the office for a ~~period of~~ at least 5 ~~3~~ years after ~~following~~ the  
1079 date ~~that~~ the examination or investigation ceases to be active.  
1080 Application records, and related information compiled by the  
1081 office, or photographic copies thereof, must ~~shall~~ be retained by  
1082 the office for a period of at least 5 ~~2~~ years after ~~following~~ the  
1083 date ~~that~~ the license ~~registration~~ ceases to be active.

1084 ~~(3) A copy of any document on file with the office which is~~  
1085 ~~certified by the office as being a true copy may be introduced in~~  
1086 ~~evidence as if it were the original. The commission shall~~  
1087 ~~establish a schedule of fees for preparing true copies of~~  
1088 ~~documents.~~

1089 (4) Any person who willfully discloses information made  
1090 confidential by this section commits a felony of the third  
1091 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
1092 775.084.

1093 Section 17. Section 560.123, Florida Statutes, is amended  
1094 to read:

1095 560.123 Florida Control of Money Laundering in ~~the~~ Money  
1096 Services Business Act Transmitters' Code; ~~reports of transactions~~  
1097 ~~involving currency or monetary instruments; when required;~~  
1098 ~~purpose; definitions; penalties; corpus delicti.--~~

1099 (1) This section may be cited as the "Florida Control of  
1100 Money Laundering in Money Services Business Transmitters Act."

1101 (2) ~~It is~~ The purpose of this section is to require the  
1102 ~~submission to the office of reports and the maintenance of~~

20082158e1

1103 certain records of transactions involving currency or payment  
1104 ~~monetary instruments in order to which reports and records~~ deter  
1105 the use of a money services business ~~money transmitters~~ to  
1106 conceal proceeds from criminal activity and to ensure the  
1107 availability of such records for ~~are useful in~~ criminal, tax, or  
1108 regulatory investigations or proceedings.

1109 (3)(a) ~~A~~ Every money services business ~~must~~ transmitter  
1110 ~~shall~~ keep a record of every ~~each~~ financial transaction ~~occurring~~  
1111 ~~in this state~~ known to it which occurs in this state; involves ~~to~~  
1112 ~~involve~~ currency or other payment ~~monetary~~ instrument, as  
1113 prescribed ~~the commission prescribes~~ by rule, having ~~of~~ a value  
1114 greater than in excess of \$10,000; and involves, ~~to involve~~ the  
1115 proceeds of ~~specified~~ unlawful activity, or is ~~to be~~ designed to  
1116 evade the reporting requirements of this section or chapter 896.  
1117 The money services business must ~~and shall~~ maintain appropriate  
1118 procedures to ensure compliance with this section and chapter  
1119 896.

1120 (a) ~~(b)~~ Multiple financial transactions shall be treated as  
1121 a single transaction if the money services business ~~transmitter~~  
1122 has knowledge that they are made by or on behalf of any one  
1123 person and result in ~~either~~ cash in or cash out totaling more  
1124 than \$10,000 during any day.

1125 (b) ~~(c)~~ A ~~Any~~ money services business ~~transmitter~~ may keep a  
1126 record of any financial transaction occurring in this state,  
1127 regardless of the value, if it suspects that the transaction  
1128 involves the proceeds of ~~specified~~ unlawful activity.

1129 (c) The money services business must file a report with the  
1130 office of any records required by this subsection, at such time  
1131 and containing such information as required by rule. The timely

20082158e1

1132 filing of the report required by 31 U.S.C. s. 5313 with the  
1133 appropriate federal agency shall be deemed compliance with the  
1134 reporting requirements of this subsection unless the reports are  
1135 not regularly and comprehensively transmitted by the federal  
1136 agency to the office.

1137 (d) A money services business ~~transmitter~~, or officer,  
1138 employee, or agent thereof, that files a report in good faith  
1139 pursuant to this section is not liable to any person for loss or  
1140 damage caused in whole or in part by the making, filing, or  
1141 governmental use of the report, or any information contained  
1142 therein.

1143 ~~(4)(3)~~ A money services business ~~transmitters~~ must comply  
1144 with ~~adhere to~~ the money laundering, enforcement, and reporting  
1145 provisions of s. 655.50~~7~~ relating to reports of transactions  
1146 involving currency transactions and payment ~~monetary~~ instruments,  
1147 and of chapter 896~~7~~ concerning offenses relating to financial  
1148 transactions.

1149 ~~(5)(4)~~ In enforcing this section, the ~~commission and~~ office  
1150 shall acknowledge and take into consideration the requirements of  
1151 Title 31, United States Code, in order ~~both~~ to reduce the burden  
1152 of ~~fulfilling~~ duplicate requirements and to acknowledge the  
1153 economic advantage of having similar reporting and recordkeeping  
1154 requirements between state and federal regulatory authorities.

1155 ~~(5)(a)~~ Each money transmitter must file a report with the  
1156 office of the record required by this section. Each record filed  
1157 pursuant to this section must be filed at such time and contain  
1158 such information as the commission requires by rule.

1159 ~~(b)~~ The timely filing of the report required by 31 U.S.C.  
1160 s. 5313, with the appropriate federal agency is deemed compliance



20082158e1

1161 ~~with the reporting requirements of this subsection unless the~~  
1162 ~~reports are not regularly and comprehensively transmitted by the~~  
1163 ~~federal agency to the office.~~

1164 (6) The office must retain a copy of all reports received  
1165 under subsection (3) ~~(5)~~ for a minimum of 5 ~~3~~ ~~calendar~~ years  
1166 after receipt of the report. However, if a report or information  
1167 contained in a report is known by the office to be the subject of  
1168 an existing criminal proceeding, the report must be retained for  
1169 a minimum of 10 ~~calendar~~ years after ~~from~~ the date of receipt.

1170 (7) In addition to any other powers conferred upon the  
1171 office to enforce and administer this chapter ~~the code~~, the  
1172 office may:

1173 (a) Bring an action in any court of competent jurisdiction  
1174 to enforce or administer this section. In such action, the office  
1175 may seek award of any civil penalty authorized by law and any  
1176 other appropriate relief at law or equity.

1177 (b) Issue and serve upon a person an order requiring the  
1178 ~~such~~ person to cease and desist and take corrective action if  
1179 ~~whenever~~ the office finds that the ~~such~~ person is violating, has  
1180 violated, or is about to violate any provision of this section or  
1181 chapter 896; any rule or order adopted under this section or  
1182 chapter 896; or any written agreement related to this section or  
1183 chapter 896 which is entered into with the office.

1184 (c) Issue and serve upon a person an order suspending or  
1185 revoking the ~~such~~ person's money services business license if  
1186 ~~transmitter registration whenever~~ the office finds that the ~~such~~  
1187 person is violating, has violated, or is about to violate any  
1188 provision of this section or chapter 896; any rule or order  
1189 adopted under this section or chapter 896; or any written

20082158e1

1190 agreement related to this section or chapter 896 which is entered  
1191 into with the office.

1192 (d) Issue and serve upon any person an order of removal  
1193 whenever the office finds that the ~~such~~ person is violating, has  
1194 violated, or is about to violate any provision of this section or  
1195 chapter 896; any rule or order adopted under this section or  
1196 chapter 896; or any written agreement related to this section or  
1197 chapter 896 which is entered into with the office.

1198 (e) Impose and collect an administrative fine against any  
1199 person found to have violated any provision of this section or  
1200 chapter 896; any rule or order adopted under this section or  
1201 chapter 896; or any written agreement related to this section or  
1202 chapter 896 which is entered into with the office, of up to ~~in an~~  
1203 ~~amount not exceeding~~ \$10,000 per a day for each willful violation  
1204 or \$500 per a day for each negligent violation.

1205 (8) (a) Except as provided in paragraph (b), a person who  
1206 willfully violates any provision of this section commits a  
1207 misdemeanor of the first degree, punishable as provided in s.  
1208 775.082 or s. 775.083.

1209 (b) A person who willfully violates any provision of this  
1210 section, if the violation involves:

1211 1. Currency or payment instruments exceeding \$300 but less  
1212 than \$20,000 in any 12-month period, commits a felony of the  
1213 third degree, punishable as provided in s. 775.082, s. 775.083,  
1214 or s. 775.084.

1215 2. Currency or payment instruments totaling or exceeding  
1216 \$20,000 but less than \$100,000 in any 12-month period, commits a  
1217 felony of the second degree, punishable as provided in s.  
1218 775.082, s. 775.083, or s. 775.084.

20082158e1

1219 3. Currency or payment instruments totaling or exceeding  
1220 \$100,000 in any 12-month period, commits a felony of the first  
1221 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
1222 775.084.

1223 (c) In addition to the penalties ~~otherwise~~ authorized by s.  
1224 775.082, s. 775.083, or s. 775.084, a person who has been  
1225 convicted of, or entered a plea of ~~who has pleaded~~ guilty or nolo  
1226 contendere, regardless of adjudication, to having violated  
1227 paragraph (b) may be sentenced to pay a fine of up to not  
1228 ~~exceeding~~ \$250,000 or twice the value of the currency or payment  
1229 instruments, whichever is greater, except that on a second or  
1230 subsequent conviction for or plea of guilty or nolo contendere,  
1231 regardless of adjudication, to a violation of paragraph (b), the  
1232 fine may be up to \$500,000 or quintuple the value of the currency  
1233 or payment instruments, whichever is greater.

1234 (d) A person who violates this section is also liable for a  
1235 civil penalty of not more than the greater of the value of the  
1236 currency or payment instruments involved or \$25,000.

1237 (9) In any prosecution brought pursuant to this section,  
1238 the common law corpus delicti rule does not apply. The  
1239 defendant's confession or admission is admissible during trial  
1240 without the state having to prove the corpus delicti if the court  
1241 finds in a hearing conducted outside the presence of the jury  
1242 that the defendant's confession or admission is trustworthy.  
1243 Before the court admits the defendant's confession or admission,  
1244 the state must prove by a preponderance of the evidence that  
1245 there is sufficient corroborating evidence that tends to  
1246 establish the trustworthiness of the statement by the defendant.  
1247 Hearsay evidence is admissible during the presentation of

20082158e1

1248 evidence at the hearing. In making its determination, the court  
1249 may consider all relevant corroborating evidence, including the  
1250 defendant's statements.

1251 Section 18. Section 560.1235, Florida Statutes, is created  
1252 to read:

1253 560.1235 Anti-money laundering requirements.--

1254 (1) A licensee and authorized vendor must comply with all  
1255 state and federal laws and rules relating to the detection and  
1256 prevention of money laundering, including, as applicable, s.  
1257 560.123, and 31 C.F.R. ss. 103.20, 103.22, 103.23, 103.27.  
1258 103.28, 103.29, 103.33, 103.37, and 103.41.

1259 (2) A licensee and authorized vendor must maintain an anti-  
1260 money laundering program in accordance with 31 C.F.R. s. 103.125.  
1261 The program must be reviewed and updated as necessary to ensure  
1262 that the program continues to be effective in detecting and  
1263 detering money laundering activities.

1264 (3) A licensee must comply with United States Treasury  
1265 Interpretive Release 2004-1.

1266 Section 19. Section 560.124, Florida Statutes, is amended  
1267 to read:

1268 560.124 Sharing of information.--

1269 ~~(1) It is not unlawful for~~ Any person may ~~to~~ provide  
1270 ~~information~~ to a money services business ~~transmitter~~, authorized  
1271 vendor, law enforcement agency, prosecutorial agency, or  
1272 appropriate regulator, or ~~for~~ any money services business  
1273 ~~transmitter~~, authorized vendor, law enforcement agency,  
1274 prosecutorial agency, or appropriate regulator may ~~to~~ provide  
1275 ~~information~~ to any person, information about any ~~other~~ person's  
1276 known or suspected involvement in a violation of any state,

20082158e1

1277 federal, or foreign law, rule, or regulation relating to the  
1278 business of a money services business or deferred present  
1279 provider transmitter which has been reported to state, federal,  
1280 or foreign authorities, and is not.

1281 ~~(2) No person shall be liable in any civil action for~~  
1282 ~~providing such information.~~

1283 Section 20. Section 560.125, Florida Statutes, is amended  
1284 to read:

1285 560.125 Unlicensed activity ~~Money transmitter business by~~  
1286 ~~unauthorized persons; penalties.--~~

1287 (1) A person ~~other than a registered money transmitter or~~  
1288 ~~authorized vendor~~ may not engage in the business of a money  
1289 services business or deferred presentment provider transmitter in  
1290 this state unless the person is licensed or exempted from  
1291 licensure under this chapter ~~from the registration requirements~~  
1292 ~~of the code.~~

1293 (2) Only a money services business licensed under part II  
1294 of this chapter may appoint an authorized vendor. ~~No person shall~~  
1295 ~~act as a vendor of a money transmitter when such money~~  
1296 ~~transmitter is subject to registration under the code but has not~~  
1297 ~~registered.~~ Any ~~such~~ person acting as a vendor for an unlicensed  
1298 money transmitter or payment instrument issuer becomes the  
1299 principal thereof, and no longer merely acts as a vendor, and  
1300 ~~such person~~ is liable to the holder or remitter as a principal  
1301 money transmitter or payment instrument seller.

1302 (3) Any person whose substantial interests are affected by  
1303 a proceeding brought by the office pursuant to this chapter ~~the~~  
1304 ~~code~~ may, pursuant to s. 560.113, petition any court of competent  
1305 jurisdiction to enjoin the person or activity that is the subject

20082158e1

1306 of the proceeding from violating any of the provisions of this  
1307 section. For the purpose of this subsection, any money services  
1308 business licensed under this chapter ~~transmitter registered~~  
1309 ~~pursuant to the code~~, any person residing in this state, and any  
1310 person whose principal place of business is in this state are  
1311 presumed to be substantially affected. In addition, the interests  
1312 of a trade organization or association are deemed substantially  
1313 affected if the interests of any of its members are ~~se~~ affected.

1314 (4) The office may issue and serve upon any person who  
1315 violates any of the provisions of this section a complaint  
1316 seeking a cease and desist order or impose an administrative fine  
1317 as provided in s. 560.114 ~~in accordance with the procedures and~~  
1318 ~~in the manner prescribed by s. 560.112. The office may also~~  
1319 ~~impose an administrative fine pursuant to s. 560.117(3) against~~  
1320 ~~any person who violates any of the provisions of this section.~~

1321 (5) A person who violates this section, if the violation  
1322 involves:

1323 (a) Currency or payment instruments exceeding \$300 but less  
1324 than \$20,000 in any 12-month period, commits a felony of the  
1325 third degree, punishable as provided in s. 775.082, s. 775.083,  
1326 or s. 775.084.

1327 (b) Currency or payment instruments totaling or exceeding  
1328 \$20,000 but less than \$100,000 in any 12-month period, commits a  
1329 felony of the second degree, punishable as provided in s.  
1330 775.082, s. 775.083, or s. 775.084.

1331 (c) Currency or payment instruments totaling or exceeding  
1332 \$100,000 in any 12-month period, commits a felony of the first  
1333 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
1334 775.084.

20082158e1

1335 (6) In addition to the penalties authorized by s. 775.082,  
1336 s. 775.083, or s. 775.084, a person who has been convicted of, or  
1337 entered a plea of ~~found guilty of or who has pleaded~~ guilty or  
1338 nolo contendere, to having violated this section may be sentenced  
1339 to pay a fine of up to ~~not exceeding~~ \$250,000 or twice the value  
1340 of the currency or payment instruments, whichever is greater,  
1341 except that on a second or subsequent violation of this section,  
1342 the fine may be up to \$500,000 or quintuple the value of the  
1343 currency or payment instruments, whichever is greater.

1344 (7) A person who violates this section is also liable for a  
1345 civil penalty of not more than the value of the currency or  
1346 payment instruments involved or \$25,000, whichever is greater.

1347 (8) In any prosecution brought pursuant to this section,  
1348 the common law corpus delicti rule does not apply. The  
1349 defendant's confession or admission is admissible during trial  
1350 without the state having to prove the corpus delicti if the court  
1351 finds in a hearing conducted outside the presence of the jury  
1352 that the defendant's confession or admission is trustworthy.  
1353 Before the court admits the defendant's confession or admission,  
1354 the state must prove by a preponderance of the evidence that  
1355 there is sufficient corroborating evidence that tends to  
1356 establish the trustworthiness of the statement by the defendant.  
1357 Hearsay evidence is admissible during the presentation of  
1358 evidence at the hearing. In making its determination, the court  
1359 may consider all relevant corroborating evidence, including the  
1360 defendant's statements.

1361 Section 21. Section 560.126, Florida Statutes, is amended  
1362 to read:

1363 560.126 ~~Significant events; notice~~ Required notice by

20082158e1

1364 licensee.--

1365 (1) A licensee ~~Unless exempted by the office, every money~~  
1366 ~~transmitter~~ must provide the office with a written notice sent by  
1367 registered mail within 30 days after the occurrence or knowledge  
1368 of, whichever period of time is greater, any of the following  
1369 events:

1370 (a) The filing of a petition under the United States  
1371 Bankruptcy Code for bankruptcy or reorganization by the licensee  
1372 ~~money transmitter~~.

1373 (b) The commencement of an administrative or judicial  
1374 license ~~any registration~~ suspension or revocation proceeding,  
1375 ~~either administrative or judicial,~~ or the denial of a license ~~any~~  
1376 ~~original registration~~ request or ~~a registration~~ renewal, by any  
1377 state, the District of Columbia, any United States territory, or  
1378 any foreign country, ~~in which the licensee money transmitter~~  
1379 ~~operates,~~ or plans to operate, or is licensed ~~or has registered~~  
1380 to operate.

1381 (c) A felony indictment relating to a the money services  
1382 ~~transmission~~ business or deferred presentment provider involving  
1383 the licensee, its authorized vendor, or an affiliated ~~money~~  
1384 ~~transmitter or a money transmitter-affiliated party of the money~~  
1385 ~~transmitter~~.

1386 (d) The felony conviction, guilty plea, or plea of nolo  
1387 contendere, regardless of adjudication, of the licensee, its  
1388 authorized vendor, or an affiliated ~~if the court adjudicates the~~  
1389 ~~nolo contendere pleader guilty, or the adjudication of guilt of a~~  
1390 ~~money transmitter or money transmitter-affiliated party~~.

1391 (e) The interruption of any corporate surety bond required  
1392 under this chapter ~~by the code~~.



20082158e1

1393 (f) Any suspected criminal act, ~~as defined by the~~  
1394 ~~commission by rule,~~ perpetrated in this state relating to  
1395 activities regulated under this chapter by an affiliated party  
1396 against a money services business transmitter or authorized  
1397 vendor.

1398 (g) Notification by a law enforcement or prosecutorial  
1399 agency that the licensee or its authorized vendor is under  
1400 criminal investigation including, but not limited to, subpoenas  
1401 to produce records or testimony and warrants issued by a court of  
1402 competent jurisdiction which authorize the search and seizure of  
1403 any records relating to a business activity regulated under this  
1404 chapter.

1405  
1406 ~~However, a person does not incur liability as a result of making~~  
1407 ~~a good faith effort to fulfill this disclosure requirement.~~

1408 (2)(a) A licensee must ~~Each registrant under this code~~  
1409 ~~shall~~ report, on a form adopted ~~prescribed~~ by rule ~~of the~~  
1410 ~~commission,~~ any change in the information contained in an any  
1411 initial license application form, or any amendment to such  
1412 application, or the appointment of an authorized vendor within  
1413 ~~thereto not later than~~ 30 days after the change is effective.

1414 (3)(b) Each licensee must ~~registrant under the code shall~~  
1415 report any change ~~changes~~ in the partners, officers, members,  
1416 joint venturers, directors, controlling shareholders, or  
1417 responsible persons of the licensee ~~any registrant~~ or changes in  
1418 the form of business organization by written amendment in such  
1419 form and at such time as specified ~~the commission specifies~~ by  
1420 rule.

1421 (a)1. If ~~In~~ any case in which a person or a group of

20082158e1

1422 ~~persons,~~ directly or indirectly or acting by or through one or  
1423 more persons, proposes to purchase or acquire a controlling  
1424 interest in a licensee, such person or group must submit an  
1425 ~~initial~~ application for licensure registration as a money  
1426 services business or deferred presentment provider transmitter  
1427 before such purchase or acquisition at such time and in such form  
1428 as prescribed ~~the commission prescribes~~ by rule.

1429       2. As used in this subsection, the term "controlling  
1430 interest" means the same as described in s. 560.127 ~~possession of~~  
1431 ~~the power to direct or cause the direction of the management or~~  
1432 ~~policies of a company whether through ownership of securities, by~~  
1433 ~~contract, or otherwise. Any person who directly or indirectly has~~  
1434 ~~the right to vote 25 percent or more of the voting securities of~~  
1435 ~~a company or is entitled to 25 percent or more of its profits is~~  
1436 ~~presumed to possess a controlling interest.~~

1437       **(b)3.** The ~~Any~~ addition of a partner, officer, member, joint  
1438 venturer, director, controlling shareholder, or responsible  
1439 person of the applicant who does not have a controlling interest  
1440 and who has not previously complied with the applicable  
1441 provisions of ss. 560.140 and 560.141 ~~is ss. 560.205 and 560.306~~  
1442 ~~shall be subject to such provisions unless required to file an~~  
1443 ~~initial application in accordance with subparagraph 1.~~ If the  
1444 office determines that the licensee registrant ~~does not continue~~  
1445 to meet the licensure registration requirements, the office may  
1446 bring an administrative action in accordance with s. 560.114 to  
1447 enforce the provisions of this chapter ~~code~~.

1448       **(c)4.** The commission shall adopt rules ~~pursuant to ss.~~  
1449 ~~120.536(1) and 120.54~~ providing for the waiver of the license  
1450 application required by this subsection if the person or group of

20082158e1

1451 persons proposing to purchase or acquire a controlling interest  
1452 in a licensee ~~registrant~~ has previously complied with the  
1453 applicable provisions of ss. 560.140 and 560.141 under ~~ss.~~  
1454 ~~560.205 and 560.306~~ with the same legal entity or is currently  
1455 licensed ~~registered with the office~~ under this chapter ~~code~~.

1456 Section 22. Section 560.127, Florida Statutes, is amended  
1457 to read:

1458 560.127 Control of a money services business  
1459 ~~transmitter~~.--A person has a controlling interest in control over  
1460 a money services business ~~transmitter~~ if the person:

1461 (1) ~~The individual, partnership, corporation, trust, or~~  
1462 ~~other organization~~ Possesses the power, directly or indirectly,  
1463 to direct the management or policies of the money services  
1464 business ~~a company~~, whether through ownership ~~of securities~~, by  
1465 contract, or otherwise; ~~A person is presumed to control a~~  
1466 ~~company if, with respect to a particular company, that person:~~

1467 ~~(a) Is a director, general partner, or officer exercising~~  
1468 ~~executive responsibility or having similar status or functions;~~

1469 ~~(2) (b)~~ Directly or indirectly may vote 25 percent or more  
1470 of a class of a voting security or sell or direct the sale of 25  
1471 percent or more of a class of voting securities; or

1472 ~~(3) (c)~~ In the case of a partnership, may receive upon  
1473 dissolution or has contributed 25 percent or more of the capital.

1474 ~~(2) The office determines, after notice and opportunity for~~  
1475 ~~hearing, that the person directly or indirectly exercises a~~  
1476 ~~controlling influence over the activities of the money~~  
1477 ~~transmitter.~~

1478 Section 23. Section 560.128, Florida Statutes, is amended  
1479 to read:

20082158e1

1480           560.128 Customer contacts; license display ~~Consumer~~  
1481 ~~disclosure.--~~

1482           (1) A money services business and authorized vendor must  
1483 provide each customer with ~~Every money transmitter and authorized~~  
1484 ~~vendor shall provide each consumer of a money transmitter~~  
1485 ~~transaction~~ a toll-free telephone number for the purpose of  
1486 contacting the money services business or authorized vendor or,  
1487 ~~consumer contacts; However,~~ in lieu of a such toll-free telephone  
1488 number, ~~the money transmitter or authorized vendor may provide~~  
1489 the address and telephone number of the office may be provided  
1490 ~~and the Division of Consumer Services of the Department of~~  
1491 ~~Financial Services.~~

1492           (2) The commission may by rule require a licensee ~~every~~  
1493 ~~money transmitter~~ to display its license ~~registration~~ at each  
1494 location, ~~including the location of each person designated by the~~  
1495 ~~registrant as an authorized vendor,~~ where the licensee ~~the money~~  
1496 ~~transmitter~~ engages in the activities authorized by the license  
1497 ~~registration.~~

1498           Section 24. Section 560.129, Florida Statutes, is amended  
1499 to read:

1500           560.129 Confidentiality.--

1501           (1) ~~(a)~~ Except as otherwise provided in this section, all  
1502 information concerning an investigation or examination conducted  
1503 by the office pursuant to this chapter, including any customer  
1504 ~~consumer~~ complaint received by the office or the Department of  
1505 Financial Services, is confidential and exempt from s. 119.07(1)  
1506 and s. 24(a), Art. I of the State Constitution until the  
1507 investigation or examination ceases to be active. For purposes of  
1508 this section, an investigation or examination is considered

20082158e1

1509 "active" so long as the office or any other administrative,  
1510 regulatory, or law enforcement agency of any jurisdiction is  
1511 proceeding with reasonable dispatch and has a reasonable good  
1512 faith belief that action may be initiated by the office or other  
1513 administrative, regulatory, or law enforcement agency.

1514 (2) (b) ~~Notwithstanding paragraph (a),~~ All information  
1515 obtained by the office in the course of its investigation or  
1516 examination which is a trade secret, as defined in s. 688.002, or  
1517 which is personal financial information shall remain confidential  
1518 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
1519 Constitution. If any administrative, civil, or criminal  
1520 proceeding against a the money services business, its authorized  
1521 vendor, transmitter or an affiliated ~~a money transmitter-~~  
1522 ~~affiliated~~ party is initiated and the office seeks to use matter  
1523 that a licensee registrant believes to be a trade secret or  
1524 personal financial information, such records shall be subject to  
1525 an in camera review by the administrative law judge, if the  
1526 matter is before the Division of Administrative Hearings, or a  
1527 judge of any court of this state, any other state, or the United  
1528 States, as appropriate, for the purpose of determining if the  
1529 matter is a trade secret or is personal financial information. If  
1530 it is determined that the matter is a trade secret, the matter  
1531 shall remain confidential. If it is determined that the matter is  
1532 personal financial information, the matter shall remain  
1533 confidential unless the administrative law judge or judge  
1534 determines that, in the interests of justice, the matter should  
1535 become public.

1536 (3) (e) If an any administrative, civil, or criminal  
1537 proceeding against a the money services business, its authorized

20082158e1

1538 ~~vendor, transmitter or an affiliated a money transmitter-~~  
1539 ~~affiliated~~ party results in an acquittal or the dismissal of all  
1540 of the allegations ~~against the money transmitter or a money~~  
1541 ~~transmitter-affiliated party~~, upon the request of any party, the  
1542 administrative law judge or the judge may order all or a portion  
1543 of the record of the proceeding to be sealed, and it shall  
1544 thereafter be confidential and exempt from s. 119.07(1) and s.  
1545 24(a), Art. I of the State Constitution.

1546 (4) ~~(d)~~ Except as necessary for the office or any other  
1547 administrative, regulatory, or law enforcement agency of any  
1548 jurisdiction to enforce the provisions of this chapter or the law  
1549 of any other state or the United States, a consumer complaint and  
1550 other information concerning an investigation or examination  
1551 shall remain confidential and exempt from s. 119.07(1) and s.  
1552 24(a), Art. I of the State Constitution after the investigation  
1553 or examination ceases to be active to the extent that disclosure  
1554 would:

1555 (a)1. Jeopardize the integrity of another active  
1556 investigation;

1557 (b)2. Reveal personal financial information;

1558 (c)3. Reveal the identity of a confidential source; or

1559 (d)4. Reveal investigative techniques or procedures.

1560 (5) ~~(2)~~ This section does not prevent or restrict:

1561 (a) Furnishing records or information to any appropriate  
1562 regulatory, prosecutorial, ~~agency~~ or law enforcement agency if  
1563 such agency adheres to the confidentiality provisions of this  
1564 chapter ~~the code~~;

1565 (b) Furnishing records or information to an appropriate  
1566 regulator or independent third party ~~or a certified public~~

20082158e1

1567 accountant who has been approved by the office to conduct an  
1568 examination under s. 560.1091 ~~s. 560.118(1)(b)~~, if the  
1569 independent third party ~~or certified public accountant~~ adheres to  
1570 the confidentiality provisions of this chapter ~~the code~~; or

1571 (c) Reporting any suspicious ~~suspected criminal~~ activity,  
1572 with supporting documents and information, to appropriate  
1573 regulatory, law enforcement, or prosecutorial agencies.

1574 ~~(6)(3)~~ All quarterly reports submitted ~~by a money~~  
1575 ~~transmitter~~ to the office under s. 560.118(2) ~~s. 560.118(2)(b)~~  
1576 are confidential and exempt from s. 119.07(1) and s. 24(a), Art.  
1577 I of the State Constitution.

1578 ~~(4) Examination reports, investigatory records,~~  
1579 ~~applications, and related information compiled by the office, or~~  
1580 ~~photographic copies thereof, shall be retained by the office for~~  
1581 ~~a period of at least 3 years following the date that the~~  
1582 ~~examination or investigation ceases to be active. Application~~  
1583 ~~records, and related information compiled by the office, or~~  
1584 ~~photographic copies thereof, shall be retained by the office for~~  
1585 ~~a period of at least 2 years following the date that the~~  
1586 ~~registration ceases to be active.~~

1587 ~~(7)(5)~~ Any person who willfully discloses information made  
1588 confidential by this section commits a felony of the third  
1589 degree, punishable as provided in s. 775.082 or s. 775.083.

1590 Section 25. Section 560.140, Florida Statutes, is created  
1591 to read:

1592 560.140 Licensing standards.--To qualify for licensure as a  
1593 money services business under this chapter, an applicant must:

1594 (1) Demonstrate to the office the character and general  
1595 fitness necessary to command the confidence of the public and

20082158e1

1596 warrant the belief that the money services business or deferred  
1597 presentment provider shall be operated lawfully and fairly.

1598 (2) Be legally authorized to do business in this state.

1599 (3) Be registered as a money services business with the  
1600 Financial Crimes Enforcement Network as required by 31 C.F.R. s.  
1601 103.41, if applicable.

1602 (4) Have an anti-money laundering program in place which  
1603 meets the requirements of 31 C.F.R. s. 103.125.

1604 (5) Provide the office with all the information required  
1605 under this chapter and related rules.

1606 Section 26. Section 560.141, Florida Statutes, is created  
1607 to read:

1608 560.141 License application.--

1609 (1) To apply for a license as a money services business  
1610 under this chapter the applicant must:

1611 (a) Submit an application to the office on forms prescribed  
1612 by rule which includes the following information:

1613 1. The legal name and address of the applicant, including  
1614 any fictitious or trade names used by the applicant in the  
1615 conduct of its business.

1616 2. The date of the applicant's formation and the state in  
1617 which the applicant was formed, if applicable.

1618 3. The name, social security number, alien identification  
1619 or taxpayer identification number, business and residence  
1620 addresses, and employment history for the past 5 years for each  
1621 officer, director, responsible person, the compliance officer,  
1622 each controlling shareholder, any other person who has a  
1623 controlling interest in the money services business as provided  
1624 in s. 560.127.



20082158e1

1625 4. A description of the organizational structure of the  
1626 applicant, including the identity of any parent or subsidiary of  
1627 the applicant, and the disclosure of whether any parent or  
1628 subsidiary is publicly traded.

1629 5. The applicant's history of operations in other states if  
1630 applicable and a description of the money services business or  
1631 deferred presentment provider activities proposed to be conducted  
1632 by the applicant in this state.

1633 6. If the applicant or its parent is a publicly traded  
1634 company, copies of all filings made by the applicant with the  
1635 United States Securities and Exchange Commission, or with a  
1636 similar regulator in a country other than the United States,  
1637 within the preceding year.

1638 7. The location at which the applicant proposes to  
1639 establish its principal place of business and any other location,  
1640 including branch offices and authorized vendors operating in this  
1641 state. For each branch office identified and each authorized  
1642 vendor appointed, the applicant shall include the nonrefundable  
1643 fee required by s. 560.143.

1644 8. The name and address of the clearing financial  
1645 institution or financial institutions through which the  
1646 applicant's payment instruments are drawn or through which the  
1647 payment instruments are payable.

1648 9. The history of the applicant's material litigation,  
1649 criminal convictions, pleas of nolo contendere, and cases of  
1650 adjudication withheld.

1651 10. The history of material litigation, arrests, criminal  
1652 convictions, pleas of nolo contendere, and cases of adjudication  
1653 withheld for each executive officer, director, controlling

20082158e1

1654 shareholder, and responsible person.

1655 11. The name of the registered agent in this state for  
1656 service of process unless the applicant is a sole proprietor.

1657 12. Any other information specified in this chapter or by  
1658 rule.

1659 (b) In addition to the application form, submit:

1660 1. A nonrefundable application fee as provided in s.  
1661 560.143.

1662 2. A fingerprint card for each of the persons listed in  
1663 subparagraph (a)3. unless the applicant is a publicly traded  
1664 corporation, or is exempted from this chapter under s.  
1665 560.104(1). The fingerprints must be taken by an authorized law  
1666 enforcement agency. The office shall submit the fingerprints to  
1667 the Department of Law Enforcement for state processing and the  
1668 Department of Law Enforcement shall forward the fingerprints to  
1669 the Federal Bureau of Investigations for federal processing. The  
1670 cost of the fingerprint processing may be borne by the office,  
1671 the employer, or the person subject to the criminal records  
1672 background check. The office shall screen the background results  
1673 to determine if the applicant meets licensure requirements. As  
1674 used in this section, the term "publicly traded" means a stock is  
1675 currently traded on a national securities exchange registered  
1676 with the federal Securities and Exchange Commission or traded on  
1677 an exchange in a country other than the United States regulated  
1678 by a regulator equivalent to the Securities and Exchange  
1679 Commission and the disclosure and reporting requirements of such  
1680 regulator are substantially similar to those of the commission.

1681 3. A copy of the applicant's written anti-money laundering  
1682 program required under 31 C.F.R. s. 103.125.

20082158e1

1683 4. Within the time allotted by rule, any information needed  
1684 to resolve any deficiencies found in the application.

1685 (2) If the office determines that the applicant meets the  
1686 qualifications and requirements of this chapter, the office shall  
1687 issue a license to the applicant. A license may not be issued for  
1688 more than 2 years.

1689 (a) A license issued under part II of this chapter shall  
1690 expire on April 30 of the second year following the date of  
1691 issuance of the license unless during such period the license is  
1692 surrendered, suspended, or revoked.

1693 (b) A license issued under part III of this chapter shall  
1694 expire on December 31 of the second year following the date of  
1695 issuance of the license unless during such period the license is  
1696 surrendered, suspended, or revoked.

1697 Section 27. Section 560.142, Florida Statutes, is created  
1698 to read:

1699 560.142 License renewal.--

1700 (1) A license may be renewed for a subsequent 2-year period  
1701 by furnishing such application as required by rule, together with  
1702 the payment of a nonrefundable renewal fee as provided under s.  
1703 560.143, on or before the license expiration date, or for the  
1704 remainder of any such period without proration following the date  
1705 of license expiration.

1706 (2) In addition to the renewal fee, each part II licensee  
1707 must pay a 2-year nonrefundable renewal fee as provided in s.  
1708 560.143 for each authorized vendor or location operating within  
1709 this state.

1710 (3) A licensee who has on file with the office a  
1711 declaration of intent to engage in deferred presentment

20082158e1

1712 transactions may renew a declaration upon license renewal by  
 1713 submitting a nonrefundable deferred presentment provider renewal  
 1714 fee as provided in s. 560.143.

1715 (4) If a license or declaration of intent to engage in  
 1716 deferred presentment transactions expires, the license or  
 1717 declaration of intent may be reinstated only if a renewal  
 1718 application or declaration of intent, all required renewal fees,  
 1719 and any applicable late fees are received by the office within 60  
 1720 days after expiration. If not submitted within 60 days, the  
 1721 license or declaration on intent expires and a new license  
 1722 application or declaration of intent must be filed with the  
 1723 office pursuant to this chapter.

1724 (5) The commission may adopt rules to administer this  
 1725 section.

1726 Section 28. Section 560.143, Florida Statutes, is created  
 1727 to read:

1728 560.143 Fees.--

1729 (1) LICENSE APPLICATION FEES.--The applicable non-  
 1730 refundable fees must accompany an application for licensure:

1731 (a) Under part II \$375.

1732 (b) Part III \$188.

1733 (c) Per branch office \$38.

1734 (d) For each appointment of an authorized vendor \$38.

1735 (e) Declaration as a deferred presentment provider \$1,000.

1736 (f) Fingerprint fees as prescribed by rule.

1737 (2) LICENSE RENEWAL FEES.--The applicable non-refundable  
 1738 license renewal fees must accompany a renewal of licensure:

1739 (a) Part II \$750.

1740 (b) Part III \$375.

20082158e1

1741	<u>(c) Per branch office</u>	<u>\$38.</u>
1742	<u>(d) For each appointment of an authorized vendors</u>	<u>\$38.</u>
1743	<u>(e) Declaration as a deferred presentment provider</u>	<u>\$1,000.</u>
1744	<u>(f) Renewal fees for branch offices and authorized vendors</u>	
1745	<u>are limited to \$20,000 biennially.</u>	
1746	<u>(3) LATE LICENSE RENEWAL FEES.--</u>	
1747	<u>(a) Part II</u>	<u>\$500.</u>
1748	<u>(b) Part III</u>	<u>\$250.</u>
1749	<u>(c) Declaration as a deferred presentment provider</u>	<u>\$500.</u>

1750 Section 29. Section 560.203, Florida Statutes, is amended  
1751 to read:

1752 560.203 Exemptions from licensure.--Authorized vendors of a  
1753 licensee ~~registrant~~ acting within the scope of authority  
1754 conferred by the licensee ~~are registrant shall be~~ exempt from  
1755 licensure but are having to register pursuant to the code but  
1756 shall otherwise be subject to the its provisions of this chapter.

1757 Section 30. Section 560.204, Florida Statutes, is amended  
1758 to read:

1759 560.204 License required ~~Requirement of registration.--~~

1760 (1) Unless exempted, a ~~No~~ person may not shall engage in  
1761 ~~for consideration, or nor~~ in any manner advertise that they  
1762 engage, in, the selling or issuing of payment instruments or in  
1763 the activity of a money funds transmitter, for compensation,  
1764 without first obtaining a license ~~registration~~ under the  
1765 ~~provisions of this part. For purposes of this section,~~  
1766 "compensation" includes profit or loss on the exchange of  
1767 currency.

1768 (2) A licensee under this part ~~person registered pursuant~~  
1769 ~~to this part is permitted to engage in the activities authorized~~

20082158e1

1770 by this part. A person registered pursuant to this part may also  
1771 engage in the activities authorized under part III of this  
1772 chapter without the imposition of any additional licensing fees  
1773 ~~and is exempt from the registration fee required by s. 560.307.~~

1774 Section 31. Section 560.205, Florida Statutes, is amended  
1775 to read:

1776 560.205 Additional license application requirements  
1777 ~~Qualifications of applicant for registration; contents.--In~~  
1778 addition to the license application requirements under part I of  
1779 this chapter, an applicant seeking a license under this part must  
1780 also submit to the office:

1781 (1) A sample authorized vendor contract, if applicable.

1782 (2) A sample form of payment instrument, if applicable.

1783 (3) Documents demonstrating that the net worth and bonding  
1784 requirements specified in s. 560.209 have been fulfilled.

1785 (4) A copy of the applicant's financial audit report for  
1786 the most recent fiscal year. If the applicant is a wholly owned  
1787 subsidiary of another corporation, the financial audit report on  
1788 the parent corporation's financial statements shall satisfy this  
1789 requirement.

1790 ~~(1) To qualify for registration under this part, an~~  
1791 ~~applicant must demonstrate to the office such character and~~  
1792 ~~general fitness as to command the confidence of the public and~~  
1793 ~~warrant the belief that the registered business will be operated~~  
1794 ~~lawfully and fairly. The office may investigate each applicant to~~  
1795 ~~ascertain whether the qualifications and requirements prescribed~~  
1796 ~~by this part have been met. The office's investigation may~~  
1797 ~~include a criminal background investigation of all controlling~~  
1798 ~~shareholders, principals, officers, directors, members, and~~

20082158e1

1799 ~~responsible persons of a funds transmitter and a payment~~  
1800 ~~instrument seller and all persons designated by a funds~~  
1801 ~~transmitter or payment instrument seller as an authorized vendor.~~  
1802 ~~Each controlling shareholder, principal, officer, director,~~  
1803 ~~member, and responsible person of a funds transmitter or payment~~  
1804 ~~instrument seller, unless the applicant is a publicly traded~~  
1805 ~~corporation as defined by the commission by rule, a subsidiary~~  
1806 ~~thereof, or a subsidiary of a bank or bank holding company~~  
1807 ~~organized and regulated under the laws of any state or the United~~  
1808 ~~States, shall file a complete set of fingerprints. A fingerprint~~  
1809 ~~card submitted to the office must be taken by an authorized law~~  
1810 ~~enforcement agency. The office shall submit the fingerprints to~~  
1811 ~~the Department of Law Enforcement for state processing, and the~~  
1812 ~~Department of Law Enforcement shall forward the fingerprints to~~  
1813 ~~the Federal Bureau of Investigation for state and federal~~  
1814 ~~processing. The cost of the fingerprint processing may be borne~~  
1815 ~~by the office, the employer, or the person subject to the~~  
1816 ~~background check. The Department of Law Enforcement shall submit~~  
1817 ~~an invoice to the office for the fingerprints received each~~  
1818 ~~month. The office shall screen the background results to~~  
1819 ~~determine if the applicant meets licensure requirements. The~~  
1820 ~~commission may waive by rule the requirement that applicants file~~  
1821 ~~a set of fingerprints or the requirement that such fingerprints~~  
1822 ~~be processed by the Department of Law Enforcement or the Federal~~  
1823 ~~Bureau of Investigation.~~

1824 ~~(2) Each application for registration must be submitted~~  
1825 ~~under oath to the office on such forms as the commission~~  
1826 ~~prescribes by rule and must be accompanied by a nonrefundable~~  
1827 ~~application fee. Such fee may not exceed \$500 for each payment~~

20082158e1

1828 ~~instrument seller or funds transmitter and \$50 for each~~  
1829 ~~authorized vendor or location operating within this state. The~~  
1830 ~~application must contain such information as the commission~~  
1831 ~~requires by rule, including, but not limited to:~~

1832 ~~(a) The name and address of the applicant, including any~~  
1833 ~~fictitious or trade names used by the applicant in the conduct of~~  
1834 ~~its business.~~

1835 ~~(b) The history of the applicant's material litigation,~~  
1836 ~~criminal convictions, pleas of nolo contendere, and cases of~~  
1837 ~~adjudication withheld.~~

1838 ~~(c) A description of the activities conducted by the~~  
1839 ~~applicant, the applicant's history of operations, and the~~  
1840 ~~business activities in which the applicant seeks to engage in~~  
1841 ~~this state.~~

1842 ~~(d) A sample authorized vendor contract, if applicable.~~

1843 ~~(e) A sample form of payment instrument, if applicable.~~

1844 ~~(f) The name and address of the clearing financial~~  
1845 ~~institution or financial institutions through which the~~  
1846 ~~applicant's payment instruments will be drawn or through which~~  
1847 ~~such payment instruments will be payable.~~

1848 ~~(g) Documents revealing that the net worth and bonding~~  
1849 ~~requirements specified in s. 560.209 have been or will be~~  
1850 ~~fulfilled.~~

1851 ~~(3) Each application for registration by an applicant that~~  
1852 ~~is a corporation shall contain such information as the commission~~  
1853 ~~requires by rule, including, but not limited to:~~

1854 ~~(a) The date of the applicant's incorporation and state of~~  
1855 ~~incorporation.~~

1856 ~~(b) A certificate of good standing from the state or~~



20082158e1

1857 ~~country in which the applicant was incorporated.~~

1858 ~~(c) A description of the corporate structure of the~~  
1859 ~~applicant, including the identity of any parent or subsidiary of~~  
1860 ~~the applicant, and the disclosure of whether any parent or~~  
1861 ~~subsidiary is publicly traded on any stock exchange.~~

1862 ~~(d) The name, social security number, business and~~  
1863 ~~residence addresses, and employment history for the past 5 years~~  
1864 ~~for each executive officer, each director, each controlling~~  
1865 ~~shareholder, and the responsible person who will be in charge of~~  
1866 ~~all the applicant's business activities in this state.~~

1867 ~~(e) The history of material litigation and criminal~~  
1868 ~~convictions, pleas of nolo contendere, and cases of adjudication~~  
1869 ~~withheld for each officer, each director, each controlling~~  
1870 ~~shareholder, and the responsible person who will be in charge of~~  
1871 ~~the applicant's registered activities.~~

1872 ~~(f) Copies of the applicant's audited financial statements~~  
1873 ~~for the current year and, if available, for the immediately~~  
1874 ~~preceding 2-year period. In cases where the applicant is a wholly~~  
1875 ~~owned subsidiary of another corporation, the parent's~~  
1876 ~~consolidated audited financial statements may be submitted to~~  
1877 ~~satisfy this requirement. An applicant who is not required to~~  
1878 ~~file audited financial statements may satisfy this requirement by~~  
1879 ~~filing unaudited financial statements verified under penalty of~~  
1880 ~~perjury, as provided by the commission by rule.~~

1881 ~~(g) An applicant who is not required to file audited~~  
1882 ~~financial statements may file copies of the applicant's~~  
1883 ~~unconsolidated, unaudited financial statements for the current~~  
1884 ~~year and, if available, for the immediately preceding 2-year~~  
1885 ~~period.~~

20082158e1

1886 ~~(h) If the applicant is a publicly traded company, copies~~  
1887 ~~of all filings made by the applicant with the United States~~  
1888 ~~Securities and Exchange Commission, or with a similar regulator~~  
1889 ~~in a country other than the United States, within the year~~  
1890 ~~preceding the date of filing of the application.~~

1891 ~~(4) Each application for registration submitted to the~~  
1892 ~~office by an applicant that is not a corporation shall contain~~  
1893 ~~such information as the commission requires by rule, including,~~  
1894 ~~but not limited to:~~

1895 ~~(a) Evidence that the applicant is registered to do~~  
1896 ~~business in this state.~~

1897 ~~(b) The name, business and residence addresses, personal~~  
1898 ~~financial statement and employment history for the past 5 years~~  
1899 ~~for each individual having a controlling ownership interest in~~  
1900 ~~the applicant, and each responsible person who will be in charge~~  
1901 ~~of the applicant's registered activities.~~

1902 ~~(c) The history of material litigation and criminal~~  
1903 ~~convictions, pleas of nolo contendere, and cases of adjudication~~  
1904 ~~withheld for each individual having a controlling ownership~~  
1905 ~~interest in the applicant and each responsible person who will be~~  
1906 ~~in charge of the applicant's registered activities.~~

1907 ~~(d) Copies of the applicant's audited financial statements~~  
1908 ~~for the current year, and, if available, for the preceding 2~~  
1909 ~~years. An applicant who is not required to file audited financial~~  
1910 ~~statements may satisfy this requirement by filing unaudited~~  
1911 ~~financial statements verified under penalty of perjury, as~~  
1912 ~~provided by the commission by rule.~~

1913 ~~(5) Each applicant shall designate and maintain an agent in~~  
1914 ~~this state for service of process.~~

20082158e1

1915 Section 32. Section 560.208, Florida Statutes, is amended  
1916 to read:

1917 560.208 Conduct of business.--In addition to the  
1918 requirements specified in s. 560.140, a licensee under this part:

1919 (1) ~~A registrant~~ May conduct its business at one or more  
1920 locations within this state through branches or by means of  
1921 authorized vendors, as designated by the licensee registrant,  
1922 including the conduct of business through electronic transfer,  
1923 such as by the telephone or the Internet.

1924 (2) Notwithstanding and without violating s. 501.0117, a  
1925 ~~registrant~~ may charge a different price for a money transmitter  
1926 ~~funds transmission~~ service based on the mode of transmission used  
1927 in the transaction ~~as,~~ so long as the price charged for a service  
1928 paid for with a credit card is not more ~~greater~~ than the price  
1929 charged when the ~~that~~ service is paid for with currency or other  
1930 similar means accepted within the same mode of transmission.

1931 (3) Is responsible for the acts of its authorized vendors  
1932 in accordance with the terms of its written contract with the  
1933 vendor.

1934 (4) Shall place assets that are the property of a customer  
1935 in a segregated account in a federally insured financial  
1936 institution and shall maintain separate accounts for operating  
1937 capital and the clearing of customer funds.

1938 (5) Shall, in the normal course of business, ensure that  
1939 money transmitted is available to the designated recipient within  
1940 10 business days after receipt.

1941 (6) Shall immediately upon receipt of currency or payment  
1942 instrument provide a confirmation or sequence number to the  
1943 customer verbally, by paper, or electronically.

20082158e1

1944       ~~(2) Within 60 days after the date a registrant either opens~~  
1945 ~~a location within this state or authorizes an authorized vendor~~  
1946 ~~to operate on the registrant's behalf within this state, the~~  
1947 ~~registrant shall notify the office on a form prescribed by the~~  
1948 ~~commission by rule. The notification shall be accompanied by a~~  
1949 ~~nonrefundable \$50 fee for each authorized vendor or location.~~  
1950 ~~Each notification shall also be accompanied by a financial~~  
1951 ~~statement demonstrating compliance with s. 560.209(1), unless~~  
1952 ~~compliance has been demonstrated by a financial statement filed~~  
1953 ~~with the registrant's quarterly report in compliance with s.~~  
1954 ~~560.118(2). The financial statement must be dated within 90 days~~  
1955 ~~of the date of designation of the authorized vendor or location.~~  
1956 ~~This subsection shall not apply to any authorized vendor or~~  
1957 ~~location that has been designated by the registrant before~~  
1958 ~~October 1, 2001.~~

1959       ~~(3) Within 60 days after the date a registrant closes a~~  
1960 ~~location within this state or withdraws authorization for an~~  
1961 ~~authorized vendor to operate on the registrant's behalf within~~  
1962 ~~this state, the registrant shall notify the office on a form~~  
1963 ~~prescribed by the commission by rule.~~

1964       Section 33. Section 560.2085, Florida Statutes, is created  
1965 to read:

1966       560.2085 Authorized vendors.--A licensee under this part  
1967 shall:

1968       (1) Within 60 days after an authorized vendor commences  
1969 business, file with the office such information as prescribed by  
1970 rule together with the nonrefundable appointment fee as provided  
1971 by s. 560.143. This requirement applies to vendors who are also  
1972 terminated within the 60-day period.

20082158e1

1973        (2) Enter into a written contract, signed by the licensee  
1974 and the authorized vendor, which:

1975        (a) Sets forth the nature and scope of the relationship  
1976 between the licensee and the authorized vendor, including the  
1977 respective rights and responsibilities of the parties; and

1978        (b) Includes contract provisions that require the  
1979 authorized vendor to:

1980        1. Report to the licensee, immediately upon discovery, the  
1981 theft or loss of currency received for a transmission or payment  
1982 instrument;

1983        2. Display a notice to the public, in such form as  
1984 prescribed by rule, that the vendor is the authorized vendor of  
1985 the licensee;

1986        3. Remit all amounts owed to the licensee for all  
1987 transmissions accepted and all payment instruments sold in  
1988 accordance with the contract between the licensee and the  
1989 authorized vendor;

1990        4. Hold in trust all currency or payment instruments  
1991 received for transmissions or for the purchase of payment  
1992 instruments from the time of receipt by the licensee or  
1993 authorized vendor until the time the transmission obligation is  
1994 completed;

1995        5. Not commingle the money received for transmissions  
1996 accepted or payment instruments sold on behalf of the licensee  
1997 with the money or property of the authorized vendor, except for  
1998 making change in the ordinary course of the vendor's business,  
1999 and ensure that the money is accounted for at the end of the  
2000 business day;

2001        6. Consent to examination or investigation by the office;

20082158e1

2002           7. Adhere to the applicable state and federal laws and  
2003 rules pertaining to a money services business; and

2004           8. Provide such other information or disclosure as may be  
2005 required by rule.

2006           (3) Develop and implement written policies and procedures  
2007 to monitor compliance with applicable state and federal law by  
2008 its authorized vendors.

2009           Section 34. Section 560.209, Florida Statutes, is amended  
2010 to read:

2011           560.209 Net worth; corporate surety bond; collateral  
2012 deposit in lieu of bond.--

2013           (1) A licensee must ~~Any person engaging in a registered~~  
2014 ~~activity shall~~ have a net worth of at least \$100,000 ~~computed~~  
2015 ~~according to generally accepted accounting principles.~~ A licensee  
2016 operating in ~~Applicants proposing to conduct registered~~  
2017 ~~activities at~~ more than one location must ~~shall~~ have an  
2018 additional net worth of \$10,000 ~~\$50,000~~ per location in this  
2019 state, up as applicable, ~~to a maximum of \$2 million~~ ~~\$500,000~~. The  
2020 required net worth must be maintained at all times.

2021           (2) A licensee must obtain an annual financial audit  
2022 report, which must be submitted to the office within 120 days  
2023 after the end of the licensee's fiscal year end, as disclosed to  
2024 the office. If the applicant is a wholly owned subsidiary of  
2025 another corporation, the financial audit report on the parent  
2026 corporation's financial statements shall satisfy this  
2027 requirement.

2028           (3) ~~(2)~~ Before the office may issue a license under this  
2029 part registration, the applicant must provide to the office a  
2030 corporate surety bond, issued by a bonding company or insurance

20082158e1

2031 company authorized to do business in this state.

2032 (a) The corporate surety bond shall be in an ~~such~~ amount as  
2033 specified ~~may be determined~~ by ~~commission~~ rule, but may ~~shall~~ not  
2034 be less than \$50,000 or exceed \$2 million ~~\$250,000~~. The rule  
2035 shall provide allowances for the financial condition, number of  
2036 locations, and anticipated volume of the licensee. ~~However, the~~  
2037 ~~commission and office may consider extraordinary circumstances,~~  
2038 ~~such as the registrant's financial condition, the number of~~  
2039 ~~locations, and the existing or anticipated volume of outstanding~~  
2040 ~~payment instruments or funds transmitted, and require an~~  
2041 ~~additional amount above \$250,000, up to \$500,000.~~

2042 (b) The corporate surety bond must ~~shall~~ be in a form  
2043 satisfactory to the office and shall run to the state for the  
2044 benefit of any claimants in this state against the applicant or  
2045 its authorized vendors to secure the faithful performance of the  
2046 obligations of the applicant and its ~~authorized~~ vendors with  
2047 respect to the receipt, handling, transmission, and payment of  
2048 funds. The aggregate liability of the corporate surety bond may  
2049 not in no event shall exceed the principal sum of the bond. ~~Such~~  
2050 Claimants against the applicant or its authorized vendors may  
2051 ~~themselves~~ bring suit directly on the corporate surety bond, or  
2052 the Department of Legal Affairs may bring suit ~~thereon~~ on behalf  
2053 of the ~~such~~ claimants, ~~in either one action or in successive~~  
2054 ~~actions.~~

2055 (c) The ~~A~~ corporate surety bond ~~filed with the office for~~  
2056 ~~purposes of compliance with this section~~ may not be canceled by  
2057 ~~either~~ the licensee ~~registrant~~ or the corporate surety except  
2058 upon written notice to the office by registered ~~or certified~~ mail  
2059 ~~with return receipt requested~~. A cancellation may ~~shall~~ not take

20082158e1

2060 effect until ~~less than~~ 30 days after receipt by the office of the  
2061 ~~such~~ written notice.

2062 (d) The corporate surety must, within 10 days after it pays  
2063 any claim ~~to any claimant~~, give written notice to the office by  
2064 registered ~~or certified~~ mail of such payment with details  
2065 sufficient to identify the claimant and the claim or judgment ~~so~~  
2066 paid.

2067 (e) If ~~Whenever~~ the principal sum of the ~~such~~ bond is  
2068 reduced by one or more recoveries or payments, the licensee  
2069 ~~registrant~~ must furnish a new or additional bond so that the  
2070 total or aggregate principal sum of the ~~such~~ bond equals the sum  
2071 required pursuant to paragraph (a) ~~by the commission~~.  
2072 Alternatively, a licensee ~~registrant~~ may furnish an endorsement  
2073 executed by the corporate surety reinstating the bond to the  
2074 required principal sum ~~thereof~~.

2075 (4) ~~(3)~~ In lieu of a ~~such~~ corporate surety bond, or of any  
2076 portion of the principal sum ~~thereof~~ required by this section,  
2077 the applicant may deposit collateral cash, securities, or  
2078 alternative security devices as provided by rule ~~approved by the~~  
2079 ~~commission~~, with a ~~any~~ federally insured financial institution.

2080 (a) Acceptable collateral deposit items ~~in lieu of a bond~~  
2081 include cash and interest-bearing stocks and bonds, notes,  
2082 debentures, or other obligations of the United States or any  
2083 agency or instrumentality thereof, or guaranteed by the United  
2084 States, or of this state.

2085 (b) The collateral deposit must be in an aggregate amount,  
2086 based upon principal amount or market value, whichever is lower,  
2087 of at least ~~not less than~~ the amount of the required corporate  
2088 surety bond or portion thereof.



20082158e1

2089 (c) Collateral deposits must ~~made under this subsection~~  
2090 ~~shall~~ be pledged to the office and held by the insured financial  
2091 institution to secure the same obligations as ~~would~~ the corporate  
2092 surety bond, but the depositor is entitled to receive any ~~all~~  
2093 interest and dividends thereon and may, with the approval of the  
2094 office, substitute other securities or deposits for those  
2095 deposited. The principal amount of the deposit shall be released  
2096 only on written authorization of the office or on the order of a  
2097 court of competent jurisdiction.

2098 ~~(5)~~ ~~(4)~~ A licensee ~~registrant~~ must at all times ~~have and~~  
2099 maintain the bond or collateral deposit in the required amount  
2100 ~~prescribed by the commission~~. If the office ~~at any time~~  
2101 reasonably determines that the bond or elements of the collateral  
2102 deposit are insecure, deficient in amount, or exhausted in whole  
2103 or in part, the office may, by written order, require the filing  
2104 of a new or supplemental bond or the deposit of new or additional  
2105 collateral deposit items.

2106 ~~(6)~~ ~~(5)~~ The bond and collateral deposit shall remain in  
2107 place for 5 years after the licensee ~~registrant~~ ceases licensed  
2108 ~~registered~~ operations in this state. The office may allow ~~permit~~  
2109 the bond or collateral deposit to be reduced or eliminated prior  
2110 to that time to the extent that the amount of the licensee's  
2111 ~~registrant's~~ outstanding payment instruments or money ~~funds~~  
2112 transmitted in this state are reduced. The office may also allow  
2113 a licensee ~~permit a registrant~~ to substitute a letter of credit  
2114 or ~~such~~ other form of acceptable security for the bond or  
2115 collateral deposit at the time the licensee ~~registrant~~ ceases  
2116 licensed ~~money transmission~~ operations in this state.

2117 ~~(6)~~ ~~The office may waive or reduce a registrant's net worth~~

20082158e1

2118 ~~or bond or collateral deposit requirement. Such waiver or~~  
2119 ~~modification must be requested by the applicant or registrant,~~  
2120 ~~and may be granted upon a showing by the applicant or registrant~~  
2121 ~~to the satisfaction of the office that:~~

2122 ~~(a) The existing net worth, bond, or collateral deposit~~  
2123 ~~requirement is sufficiently in excess of the registrant's highest~~  
2124 ~~potential level of outstanding payment instruments or money~~  
2125 ~~transmissions in this state;~~

2126 ~~(b) The direct and indirect cost of meeting the net worth,~~  
2127 ~~bond, or collateral deposit requirement will restrict the ability~~  
2128 ~~of the money transmitter to effectively serve the needs of its~~  
2129 ~~customers and the public; or~~

2130 ~~(c) The direct and indirect cost of meeting the net worth,~~  
2131 ~~bond, or collateral requirement will not only have a negative~~  
2132 ~~impact on the money transmitter but will severely hinder the~~  
2133 ~~ability of the money transmitter to participate in and promote~~  
2134 ~~the economic progress and welfare of this state or the United~~  
2135 ~~States.~~

2136 Section 35. Section 560.210, Florida Statutes, is amended  
2137 to read:

2138 560.210 Permissible investments.--

2139 (1) A licensee must ~~registrant shall~~ at all times possess  
2140 permissible investments with an aggregate market value,  
2141 calculated in accordance with ~~United States~~ generally accepted  
2142 accounting principles, of at least ~~not less than~~ the aggregate  
2143 face amount of all outstanding money ~~funds~~ transmissions and  
2144 payment instruments issued or sold by the licensee ~~registrant~~ or  
2145 an authorized vendor in the United States. As used in this  
2146 section,

20082158e1

- 2147 |       ~~(2)~~ Acceptable permissible investments include:
- 2148 |       (a) Cash.
- 2149 |       (b) Certificates of deposit or other deposit liabilities of
- 2150 | a domestic or foreign financial institution, ~~either domestic or~~
- 2151 | ~~foreign~~.
- 2152 |       (c) Bankers' acceptances eligible for purchase by member
- 2153 | banks of the Federal Reserve System.
- 2154 |       (d) An investment bearing a rating of one of the three
- 2155 | highest grades as defined by a nationally recognized rating
- 2156 | service of such securities.
- 2157 |       (e) Investment securities that are obligations of the
- 2158 | United States, its agencies or instrumentalities, or obligations
- 2159 | that are guaranteed fully as to principal and interest by the
- 2160 | United States, or any obligations of any state or municipality,
- 2161 | or any political subdivision thereof.
- 2162 |       (f) Shares in a money market mutual fund.
- 2163 |       (g) A demand borrowing agreement or agreements made to a
- 2164 | corporation or a subsidiary of a corporation whose capital stock
- 2165 | is listed on a national exchange.
- 2166 |       (h) Receivables that are due to a licensee ~~registrant~~ from
- 2167 | the licensee's ~~registrant's~~ authorized vendors except those that
- 2168 | are more than 90 ~~30~~ days past due or are doubtful of collection.
- 2169 |       (i) Any other investment approved by rule ~~the commission~~.
- 2170 |       ~~(2)~~~~(3)~~ Notwithstanding any other provision of this part,
- 2171 | the office, with respect to any particular licensee ~~registrant~~ or
- 2172 | all licensees ~~registrants~~, may limit the extent to which any
- 2173 | class of permissible investments may be considered a permissible
- 2174 | investment, except for cash and certificates of deposit.
- 2175 |       ~~(3)~~~~(4)~~ The office may waive the permissible investments

20082158e1

2176 requirement if the dollar value of a licensee's ~~registrant's~~  
2177 outstanding payment instruments and money ~~funds~~ transmitted do  
2178 not exceed the bond or collateral deposit posted by the licensee  
2179 ~~registrant~~ under s. 560.209.

2180 Section 36. Section 560.211, Florida Statutes, is amended  
2181 to read:

2182 560.211 Required records.--

2183 (1) In addition to the record retention requirements under  
2184 s. 560.110, each licensee under this part ~~Each registrant~~ must  
2185 make, keep, and preserve the following books, accounts, records,  
2186 and documents ~~other records~~ for 5 ~~a period of 3~~ years:

2187 (a) A daily record ~~or records~~ of payment instruments sold  
2188 and money ~~funds~~ transmitted.

2189 (b) A general ledger containing all asset, liability,  
2190 capital, income, and expense accounts, which ~~general ledger~~ shall  
2191 be posted at least monthly.

2192 (c) Daily settlement records ~~sheets~~ received from  
2193 authorized vendors.

2194 (d) Monthly financial institution statements and  
2195 reconciliation records.

2196 (e) Records of outstanding payment instruments and money  
2197 ~~funds~~ transmitted.

2198 (f) Records of each payment instrument paid and money ~~funds~~  
2199 transmission delivered ~~within the 3-year period~~.

2200 (g) A list of the names and addresses of all of the  
2201 licensee's ~~registrant's~~ authorized vendors, ~~as well as copies of~~  
2202 ~~each authorized vendor contract~~.

2203 (h) Records that document the establishment, monitoring,  
2204 and termination of relationships with authorized vendors and

20082158e1

2205 foreign affiliates.

2206 (1) Any additional records, as prescribed by rule, designed  
2207 to detect and prevent money laundering.

2208 ~~(2) The records required to be maintained by the code may~~  
2209 ~~be maintained by the registrant at any location if the registrant~~  
2210 ~~notifies the office in writing of the location of the records in~~  
2211 ~~its application or otherwise by amendment as prescribed by~~  
2212 ~~commission rule. The registrant shall make such records available~~  
2213 ~~to the office for examination and investigation in this state, as~~  
2214 ~~permitted by the code, within 7 days after receipt of a written~~  
2215 ~~request.~~

2216 ~~(3) Registrants and authorized vendors need not preserve or~~  
2217 ~~retain any of the records required by this section or copies~~  
2218 ~~thereof for a period longer than 3 years unless a longer period~~  
2219 ~~is expressly required by the laws of this state or federal law. A~~  
2220 ~~registrant or authorized vendor may destroy any of its records or~~  
2221 ~~copies thereof after the expiration of the retention period~~  
2222 ~~required by this section.~~

2223 ~~(4) The original of any record of a registrant or~~  
2224 ~~authorized vendor includes the data or other information~~  
2225 ~~comprising a record stored or transmitted in or by means of any~~  
2226 ~~electronic, computerized, mechanized, or other information~~  
2227 ~~storage or retrieval or transmission system or device which can~~  
2228 ~~upon request generate, regenerate, or transmit the precise data~~  
2229 ~~or other information comprising the record; and an original also~~  
2230 ~~includes the visible data or other information so generated,~~  
2231 ~~regenerated, or transmitted if it is legible or can be made~~  
2232 ~~legible by enlargement or other process.~~

2233 (2)(5) Any person who willfully fails to comply with this

20082158e1

2234 section commits a felony of the third degree, punishable as  
2235 provided in s. 775.082, s. 775.083, or s. 775.084.

2236 Section 37. Section 560.212, Florida Statutes, is amended  
2237 to read:

2238 560.212 Financial liability.--A licensee ~~Each registrant~~  
2239 under this part is liable for the payment of all money funds  
2240 transmitted and payment instruments that it sells, in whatever  
2241 form and whether directly or through an authorized vendor, as the  
2242 maker, drawer, or principal thereof, regardless of whether such  
2243 item is negotiable or nonnegotiable.

2244 Section 38. Section 560.213, Florida Statutes, is amended  
2245 to read:

2246 560.213 Payment instrument information.--Each payment  
2247 instrument sold or issued by a licensee ~~registrant~~, directly or  
2248 through an authorized vendor, must ~~shall~~ bear the name of the  
2249 licensee, and any other information as may be required by rule,  
2250 ~~registrant~~ clearly imprinted thereon.

2251 Section 39. Section 560.303, Florida Statutes, is amended  
2252 to read:

2253 560.303 License required ~~Requirement of registration~~--

2254 (1) A ~~No~~ person may not ~~shall~~ engage in, or in any manner  
2255 advertise engagement in, the business of cashing payment  
2256 instruments or ~~the~~ exchanging ~~of~~ foreign currency without being  
2257 licensed ~~first registering~~ under ~~the provisions of~~ this part.

2258 (2) A person licensed under ~~registered pursuant to~~ this  
2259 part may not engage ~~in the activities authorized by this part.~~ ~~A~~  
2260 ~~person registered under this part is prohibited from engaging~~  
2261 directly in the activities that require a license under ~~are~~  
2262 ~~authorized under a registration issued pursuant to part II of~~

20082158e1

2263 ~~this chapter,~~ but may be such person is not prohibited from  
2264 ~~engaging in~~ an authorized vendor for ~~relationship with~~ a person  
2265 licensed ~~registered~~ under part II.

2266 (3) A person exempt from licensure under registration  
2267 ~~pursuant to~~ this part engaging in the business of cashing payment  
2268 instruments or the exchanging of foreign currency may ~~shall~~ not  
2269 charge fees in excess of those provided in s. 560.309.

2270 Section 40. Section 560.304, Florida Statutes, is amended  
2271 to read:

2272 560.304 Exemption from licensure ~~Exceptions to~~  
2273 ~~registration.--The requirement for licensure under provisions of~~  
2274 this part does ~~de~~ not apply to:

2275 (1) A person cashing payment instruments that have an  
2276 aggregate face value of less than \$2,000 per person per day and  
2277 that are ~~Authorized vendors of any person registered pursuant to~~  
2278 ~~the provisions of the code, acting within the scope of authority~~  
2279 ~~conferred by the registrant.~~

2280 (2) ~~Persons engaged in the cashing of payment instruments~~  
2281 ~~or the exchanging of foreign currency which is incidental to the~~  
2282 retail sale of goods or services whose compensation for cashing  
2283 payment instruments ~~or exchanging foreign currency~~ at each site  
2284 does not exceed 5 percent of the total gross income from the  
2285 retail sale of goods or services by such person during the last  
2286 60 days ~~its most recently completed fiscal year.~~

2287 Section 41. Section 560.309, Florida Statutes, is amended  
2288 to read:

2289 560.309 Conduct of business ~~Rules.--~~

2290 (1) A licensee may transact business under this part only  
2291 under the legal name under which the person is licensed. The use

20082158e1

2292 of a fictitious name is allowed if the fictitious name has been  
2293 registered with the Department of State and disclosed to the  
2294 office as part of an initial license application, or subsequent  
2295 amendment to the application, prior to its use. ~~Before a~~  
2296 ~~registrant shall deposit, with any financial institution, a~~  
2297 ~~payment instrument that is cashed by a registrant, each such item~~  
2298 ~~must be endorsed with the actual name under which such registrant~~  
2299 ~~is doing business.~~

2300 (2) At the time a licensee accepts a payment instrument  
2301 that is cashed by the licensee, the payment instrument must be  
2302 endorsed using the legal name under which the licensee is  
2303 licensed. ~~Registrants must comply with all the laws of this state~~  
2304 ~~and any federal laws relating to money laundering, including, as~~  
2305 ~~applicable, the provisions of s. 560.123.~~

2306 (3) A licensee under this part must deposit payment  
2307 instruments into a commercial account at a federally insured  
2308 financial institution or sell payment instruments within 5  
2309 business days after the acceptance of the payment instrument.

2310 (4) A licensee may not accept or cash multiple payment  
2311 instruments from a person who is not the original payee, unless  
2312 the person is licensed to cash payment instruments pursuant to  
2313 this part and all payment instruments accepted are endorsed with  
2314 the legal name of the person.

2315 (5) A licensee must report all suspicious activity to the  
2316 office in accordance with the criteria set forth in 31 C.F.R. s.  
2317 103.20. In lieu of filing such reports, the commission may  
2318 prescribe by rule that the licensee may file such reports with an  
2319 appropriate regulator.

2320 (6) Each location of a licensee where checks are cashed



20082158e1

2321 must be equipped with a security camera system that is capable of  
2322 recording and retrieving an image in order to assist in  
2323 identifying and apprehending an offender. The licensee does not  
2324 have to install a security camera system if the licensee has  
2325 installed a bulletproof or bullet-resistant partition or  
2326 enclosure in the area where checks are cashed.

2327 (7)(3) The commission may by rule require a every check  
2328 casher to display its license registration and post a notice  
2329 listing containing its charges for cashing payment instruments.

2330 (8)(4) Exclusive of the direct costs of verification which  
2331 shall be established by ~~commission~~ rule, a no check casher may  
2332 not shall:

2333 (a) Charge fees, except as otherwise provided by this part,  
2334 in excess of 5 percent of the face amount of the payment  
2335 instrument, ~~or 6 percent without the provision of identification,~~  
2336 or \$5, whichever is greater;

2337 (b) Charge fees in excess of 3 percent of the face amount  
2338 of the payment instrument, ~~or 4 percent without the provision of~~  
2339 ~~identification,~~ or \$5, whichever is greater, if such payment  
2340 instrument is the payment of any kind of state public assistance  
2341 or federal social security benefit payable to the bearer of the  
2342 ~~such~~ payment instrument; or

2343 (c) Charge fees for personal checks or money orders in  
2344 excess of 10 percent of the face amount of those payment  
2345 instruments, or \$5, whichever is greater.

2346 ~~(d) As used in this subsection, "identification" means, and~~  
2347 ~~is limited to, an unexpired and otherwise valid driver license, a~~  
2348 ~~state identification card issued by any state of the United~~  
2349 ~~States or its territories or the District of Columbia, and~~

20082158e1

2350 ~~showing a photograph and signature, a United States Government~~  
2351 ~~Resident Alien Identification Card, a United States passport, or~~  
2352 ~~a United States Military identification card.~~

2353 (9) A licensee cashing payment instruments may not assess  
2354 the cost of collections, other than fees for insufficient funds  
2355 as provided by law, without a judgment from a court of competent  
2356 jurisdiction.

2357 (10) If a check is returned to a licensee from a payor  
2358 financial institution due to lack of funds, a closed account, or  
2359 a stop-payment order, the licensee may seek collection pursuant  
2360 to s. 68.065. In seeking collection, the licensee must comply  
2361 with the prohibitions against harassment or abuse, false or  
2362 misleading representations, and unfair practices in the Fair Debt  
2363 Collections Practices Act, 15 U.S.C. ss. 1692d, 1692e, and 1692f.  
2364 A violation of this subsection is a deceptive and unfair trade  
2365 practice and constitutes a violation of the Deceptive and Unfair  
2366 Trade Practices Act under part II of chapter 501. In addition, a  
2367 licensee must comply with the applicable provisions of the  
2368 Consumer Collection Practices Act under part VI of chapter 559,  
2369 including s. 559.77.

2370 Section 42. Section 560.310, Florida Statutes, is amended  
2371 to read:

2372 560.310 Records of check cashers and foreign currency  
2373 exchangers.--

2374 (1) In addition to the record retention requirements  
2375 specified in s. 560.110, a licensee engaged in check cashing must  
2376 maintain the following:

2377 (a) Customer files, as prescribed by rule, on all customers  
2378 who cash corporate or third-party payment instruments exceeding

20082158e1

2379 \$1,000.

2380 (b) For any payment instrument accepted having a face value  
2381 of \$1,000 or more:

2382 1. A copy of the personal identification that bears a  
2383 photograph of the customer used as identification and presented  
2384 by the customer. Acceptable personal identification is limited to  
2385 a valid driver's license; a state identification card issued by  
2386 any state of the United States or its territories or the District  
2387 of Columbia, and showing a photograph and signature; a United  
2388 States Government Resident Alien Identification Card; a passport;  
2389 or a United States Military identification card.

2390 2. A thumbprint of the customer taken by the licensee.

2391 (c) A payment instrument log that must be maintained  
2392 electronically as prescribed by rule. For purposes of this  
2393 paragraph, multiple payment instruments accepted from any one  
2394 person on any given day which total \$1,000 or more must be  
2395 aggregated and reported on the log. ~~Each registrant must maintain~~  
2396 ~~all books, accounts, records, and documents necessary to~~  
2397 ~~determine the registrant's compliance with the provisions of the~~  
2398 ~~code. Such books, accounts, records, and documents shall be~~  
2399 ~~retained for a period of at least 3 years.~~

2400 (2) A licensee under this part may engage the services of a  
2401 third party that is not a depository institution for the  
2402 maintenance and storage of records required by this section if  
2403 all the requirements of this section are met. ~~The records~~  
2404 ~~required to be maintained by the code may be maintained by the~~  
2405 ~~registrant at any location if the registrant notifies the office,~~  
2406 ~~in writing, of the location of the records in its application or~~  
2407 ~~otherwise by amendment as prescribed by commission rule. The~~

20082158e1

2408 ~~registrant shall make such records available to the office for~~  
2409 ~~examination and investigation in this state, as permitted by the~~  
2410 ~~code, within 7 days after receipt of a written request.~~

2411 ~~(3) Registrants and authorized vendors need not preserve or~~  
2412 ~~retain any of the records required by this section or copies~~  
2413 ~~thereof for a period longer than 3 years unless a longer period~~  
2414 ~~is expressly required by the laws of this state or any federal~~  
2415 ~~law. A registrant or authorized vendor may destroy any of its~~  
2416 ~~records or copies thereof after the expiration of the retention~~  
2417 ~~period required by this section.~~

2418 ~~(4) The original of any record of a registrant or~~  
2419 ~~authorized vendor includes the data or other information~~  
2420 ~~comprising a record stored or transmitted in or by means of any~~  
2421 ~~electronic, computerized, mechanized, or other information~~  
2422 ~~storage or retrieval or transmission system or device which can~~  
2423 ~~upon request generate, regenerate, or transmit the precise data~~  
2424 ~~or other information comprising the record; and an original also~~  
2425 ~~includes the visible data or other information so generated,~~  
2426 ~~regenerated, or transmitted if it is legible or can be made~~  
2427 ~~legible by enlargement or other process.~~

2428 ~~(5) Any person who willfully violates this section or fails~~  
2429 ~~to comply with any lawful written demand or order of the office~~  
2430 ~~made pursuant to this section commits a felony of the third~~  
2431 ~~degree, punishable as provided in s. 775.082, s. 775.083, or s.~~  
2432 ~~775.084.~~

2433 Section 43. Section 560.402, Florida Statutes, is amended  
2434 to read:

2435 560.402 Definitions.--~~In addition to the definitions~~  
2436 ~~provided in ss. 560.103, 560.202, and 560.302 and unless~~

20082158e1

2437 ~~otherwise clearly indicated by the context,~~ For the purposes of  
2438 this part, the term:

2439 (1) "Affiliate" means a person who, directly or indirectly,  
2440 through one or more intermediaries controls, ~~or~~ is controlled by,  
2441 or is under common control with, a deferred presentment provider.

2442 ~~(2) "Business day" means the hours during a particular day~~  
2443 ~~during which a deferred presentment provider customarily conducts~~  
2444 ~~business, not to exceed 15 consecutive hours during that day.~~

2445 ~~(3) "Days" means calendar days.~~

2446 (2) ~~(4)~~ "Deferment period" means the number of days a  
2447 deferred presentment provider agrees to defer depositing, ~~or~~  
2448 presenting, or redeeming a payment instrument.

2449 ~~(5) "Deferred presentment provider" means a person who~~  
2450 ~~engages in a deferred presentment transaction and is registered~~  
2451 ~~under part II or part III of the code and has filed a declaration~~  
2452 ~~of intent with the office.~~

2453 (3) ~~(6)~~ "Deferred presentment transaction" means providing  
2454 currency or a payment instrument in exchange for a drawer's  
2455 ~~person's~~ check and agreeing to hold the ~~that person's~~ check for a  
2456 deferment period ~~of time prior to presentment, deposit, or~~  
2457 ~~redemption.~~

2458 (4) ~~(7)~~ "Drawer" means a customer ~~any person~~ who writes a  
2459 personal check and upon whose account the check is drawn.

2460 (5) "Extension of a deferred presentment agreement" means  
2461 continuing a deferred presentment transaction past the deferment  
2462 period by having the drawer pay additional fees and the deferred  
2463 presentment provider continuing to hold the check for another  
2464 deferment period.

2465 (6) ~~(8)~~ "Rollover" means the termination or extension of a

20082158e1

2466 an ~~existing~~ deferred presentment agreement by the payment of an  
2467 ~~any~~ additional fee and the continued holding of the check, or the  
2468 substitution of a new check ~~drawn~~ by the drawer pursuant to a new  
2469 deferred presentment agreement.

2470 ~~(9) "Fee" means the fee authorized for the deferral of the~~  
2471 ~~presentation of a check pursuant to this part.~~

2472 (7)~~(10)~~ "Termination of a ~~an existing~~ deferred presentment  
2473 agreement" means that the check that is the basis for the ~~an~~  
2474 agreement is redeemed by the drawer by payment in full in cash,  
2475 or is deposited and the deferred presentment provider has  
2476 evidence that such check has cleared. A Verification of  
2477 sufficient funds in the drawer's account by the deferred  
2478 presentment provider is ~~shall~~ not ~~be~~ sufficient evidence to deem  
2479 that the ~~existing~~ deferred deposit transaction is ~~to be~~  
2480 terminated.

2481 ~~(11) "Extension of an existing deferred presentment~~  
2482 ~~agreement" means that a deferred presentment transaction is~~  
2483 ~~continued by the drawer paying any additional fees and the~~  
2484 ~~deferred presentment provider continues to hold the check for~~  
2485 ~~another period of time prior to deposit, presentment, or~~  
2486 ~~redemption.~~

2487 Section 44. Section 560.403, Florida Statutes, is amended  
2488 to read:

2489 560.403 ~~Requirements of registration;~~ Declaration of  
2490 intent.--

2491 ~~(1)~~ Except for financial institutions as defined in s.  
2492 655.005 ~~No person, Unless otherwise exempt from this chapter, a~~  
2493 person may not ~~shall~~ engage in a deferred presentment transaction  
2494 unless the person is licensed as a money services business

20082158e1

2495 ~~registered under the provisions of part II or part III of this~~  
2496 ~~chapter~~ and has on file with the office a declaration of intent  
2497 to engage in deferred presentment transactions, regardless of  
2498 whether such person is exempted from licensure under any other  
2499 provision of this chapter. The declaration of intent must shall  
2500 be under oath and on such form as prescribed ~~the commission~~  
2501 ~~prescribes~~ by rule. The declaration of intent must shall be filed  
2502 ~~together~~ with a nonrefundable filing fee as provided in s.  
2503 560.143 of \$1,000. ~~Any person who is registered under part II or~~  
2504 ~~part III on the effective date of this act and intends to engage~~  
2505 ~~in deferred presentment transactions shall have 60 days after the~~  
2506 ~~effective date of this act to file a declaration of intent. A~~  
2507 declaration of intent expires after 24 months and must be  
2508 renewed.

2509 ~~(2) A registrant under this part shall renew his or her~~  
2510 ~~intent to engage in the business of deferred presentment~~  
2511 ~~transactions or to act as a deferred presentment provider upon~~  
2512 ~~renewing his or her registration under part II or part III and~~  
2513 ~~shall do so by indicating his or her intent by submitting a~~  
2514 ~~nonrefundable deferred presentment provider renewal fee of~~  
2515 ~~\$1,000, in addition to any fees required for renewal of~~  
2516 ~~registration under part II or part III.~~

2517 ~~(3) A registrant under this part who fails to timely renew~~  
2518 ~~his or her intent to engage in the business of deferred~~  
2519 ~~presentment transactions or to act as a deferred presentment~~  
2520 ~~provider shall immediately cease to engage in the business of~~  
2521 ~~deferred presentment transactions or to act as a deferred~~  
2522 ~~presentment provider.~~

2523 ~~(4) The notice of intent of a registrant under this part~~

20082158e1

2524 ~~who fails to timely renew his or her intent to engage in the~~  
2525 ~~business of deferred presentment transactions or to act as a~~  
2526 ~~deferred presentment provider on or before the expiration date of~~  
2527 ~~the registration period automatically expires. A renewal fee and~~  
2528 ~~a nonrefundable late fee of \$500 must be filed within 60 calendar~~  
2529 ~~days after the expiration of an existing registration in order~~  
2530 ~~for the declaration of intent to be reinstated. The office shall~~  
2531 ~~grant a reinstatement of registration if an application is filed~~  
2532 ~~during the 60-day period, and the reinstatement is effective upon~~  
2533 ~~receipt of the required fees and any information that the~~  
2534 ~~commission requires by rule. If the registrant has not filed a~~  
2535 ~~reinstatement of a renewal declaration of intent within 60~~  
2536 ~~calendar days after the expiration date of an existing~~  
2537 ~~registration, the notice of intent expires and a new declaration~~  
2538 ~~of intent must be filed with the office.~~

2539 ~~(5) No person, other than a financial institution as~~  
2540 ~~defined in s. 655.005, shall be exempt from registration and~~  
2541 ~~declaration if such person engages in deferred presentment~~  
2542 ~~transactions, regardless of whether such person is currently~~  
2543 ~~exempt from registration under any provision of this code.~~

2544 Section 45. Section 560.404, Florida Statutes, is amended  
2545 to read:

2546 560.404 Requirements for deferred presentment  
2547 transactions.--

2548 (1) Each ~~Every~~ deferred presentment transaction must ~~shall~~  
2549 be documented in a written agreement signed by ~~both~~ the deferred  
2550 presentment provider and the drawer.

2551 (2) The deferred presentment transaction agreement must  
2552 ~~shall~~ be executed on the day the deferred presentment provider



20082158e1

2553 furnishes currency or a payment instrument to the drawer.

2554 (3) Each written agreement must ~~shall contain the following~~  
2555 ~~information~~, in addition to any information required ~~the~~  
2556 ~~commission requires~~ by rule, contain the following information:

2557 (a) The name or trade name, address, and telephone number  
2558 of the deferred presentment provider and the name and title of  
2559 the person who signs the agreement on behalf of the ~~deferred~~  
2560 ~~presentment~~ provider.

2561 (b) The date the deferred presentment transaction is ~~was~~  
2562 made.

2563 (c) The amount of the drawer's check.

2564 (d) The length of the deferment ~~deferral~~ period.

2565 (e) The last day of the deferment period.

2566 (f) The address and telephone number of the office ~~and the~~  
2567 ~~Division of Consumer Services of the Department of Financial~~  
2568 ~~Services.~~

2569 (g) A clear description of the drawer's payment obligations  
2570 under the deferred presentment transaction.

2571 (h) The transaction number assigned by the office's  
2572 database.

2573 (4) The ~~Every~~ deferred presentment provider must ~~shall~~  
2574 ~~furnish to the drawer~~ a copy of the deferred presentment  
2575 transaction agreement to the drawer.

2576 (5) The face amount of a check taken for deferred  
2577 presentment may not exceed \$500 exclusive of the fees allowed  
2578 under ~~by~~ this part.

2579 (6) A ~~No~~ deferred presentment provider or its affiliate may  
2580 not ~~shall~~ charge fees that exceed ~~in excess of~~ 10 percent of the  
2581 currency or payment instrument provided. However, a verification

20082158e1

2582 fee may be charged as provided in s. 560.309(7) ~~in accordance~~  
2583 ~~with s. 560.309(4) and the rules adopted pursuant to the code.~~  
2584 The 10-percent fee may not be applied to the verification fee. A  
2585 deferred presentment provider may charge only those fees  
2586 specifically authorized in this section.

2587 (7) The fees authorized by this section may not be  
2588 collected before the drawer's check is presented or redeemed.

2589 (8) A ~~No~~ deferred presentment agreement may not ~~shall~~ be  
2590 for a term longer than ~~in excess of~~ 31 days or less than 7 days.

2591 (9) A ~~No~~ deferred presentment provider may not ~~shall~~  
2592 require a drawer ~~person~~ to provide any additional security for  
2593 the deferred presentment transaction or any extension or require  
2594 the drawer ~~a person~~ to provide any additional guaranty from  
2595 another person.

2596 (10) A deferred presentment provider may ~~shall~~ not include  
2597 any of the following provisions in a deferred provider ~~any~~  
2598 ~~written~~ agreement:

2599 (a) A hold harmless clause. †

2600 (b) A confession of judgment clause. †

2601 (c) Any assignment of or order for payment of wages or  
2602 other compensation for services. †

2603 (d) A provision in which the drawer agrees not to assert  
2604 any claim or defense arising out of the agreement. † ~~or~~

2605 (e) A waiver of any provision of this part.

2606 (11) A ~~Each~~ deferred presentment provider shall immediately  
2607 provide the drawer with the full amount of any check to be held,  
2608 less only the fees allowed ~~permitted~~ under this section.

2609 (12) The deferred presentment agreement and the drawer's  
2610 check must ~~shall~~ bear the same date, and the number of days of

20082158e1

2611 the deferment period shall be calculated from that ~~this~~ date. The  
2612 ~~No~~ deferred presentment provider and the drawer ~~or person~~ may not  
2613 alter or delete the date on any written agreement or check held  
2614 by the deferred presentment provider.

2615 (13) For each deferred presentment transaction, the  
2616 deferred presentment provider must comply with the disclosure  
2617 requirements of 12 C.F.R., part 226, relating to the federal  
2618 Truth-in-Lending Act, and Regulation Z of the Board of Governors  
2619 of the Federal Reserve Board. A copy of the disclosure must be  
2620 provided to the drawer at the time the deferred presentment  
2621 transaction is initiated.

2622 (14) A ~~No~~ deferred presentment provider or its affiliate  
2623 may not accept or hold an undated check or a check dated on a  
2624 date other than the date on which the deferred presentment  
2625 provider agreed to hold the check and signed the deferred  
2626 presentment transaction agreement.

2627 (15) A ~~Every~~ deferred presentment provider must ~~shall~~ hold  
2628 the drawer's check for the agreed number of days, unless the  
2629 drawer chooses to redeem the check before the ~~agreed~~ presentment  
2630 date.

2631 (16) Proceeds in a deferred presentment transaction may be  
2632 made to the drawer in the form of the deferred presentment  
2633 provider's payment instrument if the deferred presentment  
2634 provider is registered under part II; however, an ~~no~~ additional  
2635 fee may not be charged by a deferred presentment provider or its  
2636 affiliate for issuing or cashing the deferred presentment  
2637 provider's payment instrument.

2638 (17) A ~~No~~ deferred presentment provider may not require the  
2639 drawer to accept its payment instrument in lieu of currency.

20082158e1

2640 (18) A ~~No~~ deferred presentment provider or its affiliate  
2641 may not engage in the rollover of a ~~any~~ deferred presentment  
2642 agreement. A deferred presentment provider may ~~shall~~ not redeem,  
2643 extend, or otherwise consolidate a deferred presentment agreement  
2644 with the proceeds of another deferred presentment transaction  
2645 made by the same or an affiliate ~~affiliated deferred presentment~~  
2646 ~~provider~~.

2647 (19) A deferred presentment provider may not enter into a  
2648 deferred presentment transaction with a drawer ~~person~~ who has an  
2649 outstanding deferred presentment transaction with that provider  
2650 or with any other deferred presentment provider, or with a person  
2651 whose previous deferred presentment transaction with that  
2652 provider or with any other provider has been terminated for less  
2653 than 24 hours. The deferred presentment provider must verify such  
2654 information as follows:

2655 (a) The deferred presentment provider shall maintain a  
2656 common database and shall verify whether the ~~that deferred~~  
2657 ~~presentment~~ provider or an affiliate has an outstanding deferred  
2658 presentment transaction with a particular person or has  
2659 terminated a transaction with that person within the previous 24  
2660 hours.

2661 (b) The deferred presentment provider shall access the  
2662 office's database established pursuant to subsection (23) and  
2663 shall verify whether any other deferred presentment provider has  
2664 an outstanding deferred presentment transaction with a particular  
2665 person or has terminated a transaction with that person within  
2666 the previous 24 hours. If a provider has not established ~~Prior to~~  
2667 ~~the time that the office has implemented~~ such a database, the  
2668 deferred presentment provider may rely upon the written

20082158e1

2669 verification of the drawer as provided in subsection (20).

2670 (20) A deferred presentment provider shall provide the  
2671 following notice in a prominent place on each deferred  
2672 presentment agreement in at least 14-point type in substantially  
2673 the following form and must obtain the signature of the drawer  
2674 where indicated:

2675

2676 NOTICE

2677

2678 1. STATE LAW PROHIBITS YOU FROM HAVING MORE THAN ONE DEFERRED  
2679 PRESENTMENT AGREEMENT AT ANY ONE TIME. STATE LAW ALSO PROHIBITS  
2680 YOU FROM ENTERING INTO A DEFERRED PRESENTMENT AGREEMENT WITHIN 24  
2681 HOURS AFTER ~~OF~~ TERMINATING ANY PREVIOUS DEFERRED PRESENTMENT  
2682 AGREEMENT. FAILURE TO OBEY THIS LAW COULD CREATE SEVERE FINANCIAL  
2683 HARDSHIP FOR YOU AND YOUR FAMILY.

2684

2685 YOU MUST SIGN THE FOLLOWING STATEMENT:

2686

2687 I DO NOT HAVE AN OUTSTANDING DEFERRED PRESENTMENT AGREEMENT WITH  
2688 ANY DEFERRED PRESENTMENT PROVIDER AT THIS TIME. I HAVE NOT  
2689 TERMINATED A DEFERRED PRESENTMENT AGREEMENT WITHIN THE PAST 24  
2690 HOURS.

2691

2692 (Signature of Drawer)

2693

2694 2. YOU CANNOT BE PROSECUTED IN CRIMINAL COURT FOR A CHECK  
2695 WRITTEN UNDER THIS AGREEMENT, BUT ALL LEGALLY AVAILABLE CIVIL  
2696 MEANS TO ENFORCE THE DEBT MAY BE PURSUED AGAINST YOU.

2697

20082158e1

2698 3. STATE LAW PROHIBITS A DEFERRED PRESENTMENT PROVIDER (THIS  
2699 BUSINESS) FROM ALLOWING YOU TO "ROLL OVER" YOUR DEFERRED  
2700 PRESENTMENT TRANSACTION. THIS MEANS THAT YOU CANNOT BE ASKED OR  
2701 REQUIRED TO PAY AN ADDITIONAL FEE IN ORDER TO FURTHER DELAY THE  
2702 DEPOSIT OR PRESENTMENT OF YOUR CHECK FOR PAYMENT. IF YOU INFORM  
2703 THE PROVIDER IN PERSON THAT YOU CANNOT COVER THE CHECK OR PAY IN  
2704 FULL THE AMOUNT OWING AT THE END OF THE TERM OF THIS AGREEMENT,  
2705 YOU WILL RECEIVE A GRACE PERIOD EXTENDING THE TERM OF THE  
2706 AGREEMENT FOR AN ADDITIONAL 60 DAYS AFTER THE ORIGINAL  
2707 TERMINATION DATE, WITHOUT ANY ADDITIONAL CHARGE. THE DEFERRED  
2708 PRESENTMENT PROVIDER SHALL REQUIRE THAT YOU, AS A CONDITION OF  
2709 OBTAINING THE GRACE PERIOD, COMPLETE CONSUMER CREDIT COUNSELING  
2710 PROVIDED BY AN AGENCY INCLUDED ON THE LIST THAT WILL BE PROVIDED  
2711 TO YOU BY THIS PROVIDER. YOU MAY ALSO AGREE TO COMPLY WITH AND  
2712 ADHERE TO A REPAYMENT PLAN APPROVED BY THAT AGENCY. IF YOU DO NOT  
2713 COMPLY WITH AND ADHERE TO A REPAYMENT PLAN APPROVED BY THAT  
2714 AGENCY, WE MAY DEPOSIT OR PRESENT YOUR CHECK FOR PAYMENT AND  
2715 PURSUE ALL LEGALLY AVAILABLE CIVIL MEANS TO ENFORCE THE DEBT AT  
2716 THE END OF THE 60-DAY GRACE PERIOD.

2717 (21) The deferred presentment provider may not deposit or  
2718 present the drawer's check if the drawer informs the provider in  
2719 person that the drawer cannot redeem or pay in full in cash the  
2720 amount due and owing the deferred presentment provider. No  
2721 additional fees or penalties may be imposed on the drawer by  
2722 virtue of any misrepresentation made by the drawer as to the  
2723 sufficiency of funds in the drawer's account. ~~In no event shall~~  
2724 ~~any~~ Additional fees may not be added to the amounts due and owing  
2725 to the deferred presentment provider.

2726 (22) ~~(a)~~ If, by the end of the deferment period, the drawer

20082158e1

2727 | informs the deferred presentment provider in person that the  
2728 | drawer cannot redeem or pay in full in cash the amount due and  
2729 | owing the deferred presentment provider, the deferred presentment  
2730 | provider shall provide a grace period extending the term of the  
2731 | agreement for an additional 60 days after the original  
2732 | termination date, without any additional charge.

2733 |       (a) The provider shall require that as a condition of  
2734 | providing a ~~this~~ grace period, that ~~within the first 7 days of~~  
2735 | ~~the grace period~~ the drawer make an appointment with a consumer  
2736 | credit counseling agency within 7 days after the end of the  
2737 | deferment period and complete the counseling by the end of the  
2738 | grace period. The drawer may agree to, comply with, and adhere to  
2739 | a repayment plan approved by the counseling agency. If the drawer  
2740 | agrees to comply with and adhere to a repayment plan approved by  
2741 | the counseling agency, the provider must ~~is also required to~~  
2742 | comply with and adhere to that repayment plan. The deferred  
2743 | presentment provider may not deposit or present the drawer's  
2744 | check for payment before the end of the 60-day grace period  
2745 | unless the drawer fails to comply with such conditions or the  
2746 | drawer fails to notify the provider of such compliance. Before  
2747 | each deferred presentment transaction, the provider may verbally  
2748 | advise the drawer of the availability of the grace period  
2749 | consistent with ~~the provisions of~~ the written notice in  
2750 | subsection (20), and may ~~shall~~ not discourage the drawer from  
2751 | using the grace period.

2752 |       (b) At the commencement of the grace period, the deferred  
2753 | presentment provider shall provide the drawer:

2754 |           1. Verbal notice of the availability of the grace period  
2755 | consistent with the written notice in subsection (20).

20082158e1

2756 2. A list of approved consumer credit counseling agencies  
2757 prepared by the office. The office list shall include nonprofit  
2758 consumer credit counseling agencies affiliated with the National  
2759 Foundation for Credit Counseling which provide credit counseling  
2760 services to state Florida residents in person, by telephone, or  
2761 through the Internet. The office list must include phone numbers  
2762 for the agencies, the counties served by the agencies, and  
2763 indicate the agencies that provide telephone counseling and those  
2764 that provide Internet counseling. The office shall update the  
2765 list at least once each year.

2766 3. The following notice in at least 14-point type in  
2767 substantially the following form:

2768  
2769 AS A CONDITION OF OBTAINING A GRACE PERIOD EXTENDING THE TERM OF  
2770 YOUR DEFERRED PRESENTMENT AGREEMENT FOR AN ADDITIONAL 60 DAYS,  
2771 UNTIL [DATE], WITHOUT ANY ADDITIONAL FEES, YOU MUST COMPLETE  
2772 CONSUMER CREDIT COUNSELING PROVIDED BY AN AGENCY INCLUDED ON THE  
2773 LIST THAT WILL BE PROVIDED TO YOU BY THIS PROVIDER. YOU MAY ALSO  
2774 AGREE TO COMPLY WITH AND ADHERE TO A REPAYMENT PLAN APPROVED BY  
2775 THE AGENCY. THE COUNSELING MAY BE IN PERSON, BY TELEPHONE, OR  
2776 THROUGH THE INTERNET. YOU MUST NOTIFY US WITHIN 7 ~~SEVEN (7)~~ DAYS,  
2777 BY [DATE], THAT YOU HAVE MADE AN APPOINTMENT WITH ~~SUCH~~ A CONSUMER  
2778 CREDIT COUNSELING AGENCY. YOU MUST ALSO NOTIFY US WITHIN 60 ~~SIXTY~~  
2779 ~~(60)~~ DAYS, BY [DATE], THAT YOU HAVE COMPLETED THE CONSUMER CREDIT  
2780 COUNSELING. WE MAY VERIFY THIS INFORMATION WITH THE AGENCY. IF  
2781 YOU FAIL TO PROVIDE ~~EITHER~~ THE 7-DAY OR 60-DAY NOTICE, OR IF YOU  
2782 HAVE NOT MADE THE APPOINTMENT OR COMPLETED THE COUNSELING WITHIN  
2783 THE TIME REQUIRED, WE MAY DEPOSIT OR PRESENT YOUR CHECK FOR  
2784 PAYMENT AND PURSUE ALL LEGALLY AVAILABLE CIVIL MEANS TO ENFORCE



20082158e1

2785 THE DEBT.

2786 (c) If a drawer completes an approved payment plan, the  
2787 deferred presentment provider shall pay one-half of the drawer's  
2788 fee for the deferred presentment agreement to the consumer credit  
2789 counseling agency.

2790 (23) The office shall implement a common database with  
2791 real-time access through an Internet connection for deferred  
2792 presentment providers, as provided in this subsection. The  
2793 database must be accessible to the office and the deferred  
2794 presentment providers in order to verify whether any deferred  
2795 presentment transactions are outstanding for a particular person.  
2796 Deferred presentment providers shall submit such data before  
2797 entering into each deferred presentment transaction in such  
2798 format as required ~~the commission shall require~~ by rule,  
2799 including the drawer's name, social security number or employment  
2800 authorization alien number, address, driver's license number,  
2801 amount of the transaction, date of transaction, the date that the  
2802 transaction is closed, and such additional information as is  
2803 required by rule ~~the commission~~. The commission may by rule  
2804 impose a fee of up to ~~not to exceed~~ \$1 per transaction for data  
2805 that must ~~required to~~ be submitted by a deferred presentment  
2806 provider. A deferred presentment provider may rely on the  
2807 information contained in the database as accurate and is not  
2808 subject to any administrative penalty or civil liability due to  
2809 ~~as a result of~~ relying on inaccurate information contained in the  
2810 database. A deferred presentment provider must notify the office,  
2811 in a manner as prescribed by rule, within 15 business days after  
2812 ceasing operations or no longer holding a license under part II  
2813 or part III of this chapter. Such notification must include a

20082158e1

2814 reconciliation of all open transactions. If the provider fails to  
2815 provide notice, the office shall take action to administratively  
2816 release all open and pending transactions in the database after  
2817 the office becomes aware of the closure. This section does not  
2818 affect the rights of the provider to enforce the contractual  
2819 provisions of the deferred presentment agreements through any  
2820 civil action allowed by law. The commission may adopt rules to  
2821 administer and enforce the provisions of this subsection section  
2822 and to ensure assure that the database is used by deferred  
2823 presentment providers in accordance with this section.

2824 (24) A deferred presentment provider may not accept more  
2825 than one check or authorization to initiate more than one  
2826 automated clearinghouse transaction to collect on a deferred  
2827 presentment transaction for a single deferred presentment  
2828 transaction.

2829 Section 46. Section 560.405, Florida Statutes, is amended  
2830 to read:

2831 560.405 Deposit; redemption.--

2832 (1) The deferred presentment provider or its affiliate may  
2833 ~~shall~~ not present the drawer's check before the end of the  
2834 deferment period prior to the agreed-upon date of presentment, as  
2835 reflected in the deferred presentment transaction agreement.

2836 (2) Before a deferred presentment provider presents the  
2837 drawer's check, the check must ~~shall~~ be endorsed with the ~~actual~~  
2838 name under which the deferred presentment provider is doing  
2839 business.

2840 (3) Notwithstanding ~~the provisions of~~ subsection (1), in  
2841 lieu of presentment, a deferred presentment provider may allow  
2842 the check to be redeemed at any time upon payment ~~to the deferred~~

20082158e1

2843 ~~presentment provider in the amount~~ of the face amount of the  
2844 drawer's check. However, payment may not be made in the form of a  
2845 personal check. Upon redemption, the deferred presentment  
2846 provider shall return the drawer's check ~~that was being held~~ and  
2847 provide a signed, dated receipt showing that the drawer's check  
2848 has been redeemed.

2849 (4) A ~~No~~ drawer may not ~~ean~~ be required to redeem his or  
2850 her check before ~~prior to~~ the agreed-upon date; however, the  
2851 drawer may choose to redeem the check before the agreed-upon  
2852 presentment date.

2853 Section 47. Section 560.406, Florida Statutes, is amended  
2854 to read:

2855 560.406 Worthless checks.--

2856 (1) If a check is returned to a deferred presentment  
2857 provider from a payor financial institution due to lack of funds,  
2858 a closed account, or a stop-payment order, the deferred  
2859 presentment provider may seek collection pursuant to s. 68.065,  
2860 except a deferred presentment provider may ~~shall~~ not be entitled  
2861 ~~to~~ collect treble damages ~~pursuant s. 68.065~~. The notice sent by  
2862 the a deferred deposit provider may ~~pursuant to s. 68.065~~ shall  
2863 not include any references to treble damages and must clearly  
2864 state that the deferred presentment provider is not entitled to  
2865 recover such damages. Except as otherwise provided in this part,  
2866 an individual who issues a personal check to a deferred  
2867 presentment provider under a deferred presentment agreement is  
2868 not subject to criminal penalty.

2869 (2) If a check is returned to a deferred presentment  
2870 provider from a payor financial institution due to insufficient  
2871 funds, a closed account, or a stop-payment order, the deferred

20082158e1

2872 presentment provider may pursue all legally available civil  
2873 remedies to collect the check, including, but not limited to, the  
2874 imposition of all charges imposed on the deferred presentment  
2875 provider by the any financial institution. In its collection  
2876 practices, a deferred presentment provider must ~~shall~~ comply with  
2877 the prohibitions against harassment or abuse, false or misleading  
2878 representations, and unfair practices that ~~which~~ are contained in  
2879 ~~ss. 806, 807, and 808~~ of the Fair Debt Collections Practices Act,  
2880 15 U.S.C. ss. 1692d, 1692e, 1692f. A violation of this act is a  
2881 deceptive and unfair trade practice and constitutes a violation  
2882 of the Deceptive and Unfair Trade Practices Act under, ~~part~~ II of  
2883 chapter 501. In addition, a deferred presentment provider must  
2884 ~~shall~~ comply with the applicable provisions of ~~part VI of chapter~~  
2885 ~~559~~, the Consumer Collection Practices Act under part VI of  
2886 chapter 559, including, ~~but not limited to, the provisions of s.~~  
2887 559.77.

2888 (3) A deferred presentment provider may not assess the cost  
2889 of collection, other than charges for insufficient funds as  
2890 allowed by law, without a judgment from a court of competent  
2891 jurisdiction.

2892 Section 48. Subsection (7) of section 499.005, Florida  
2893 Statutes, is amended to read:

2894 499.005 Prohibited acts.--It is unlawful for a person to  
2895 perform or cause the performance of any of the following acts in  
2896 this state:

2897 (7) The purchase or sale of prescription drugs for  
2898 wholesale distribution in exchange for currency, as defined in s.  
2899 560.103 ~~s. 560.103(6)~~.

2900 Section 49. Paragraph (i) of subsection (2) of section

20082158e1

2901 499.0691, Florida Statutes, is amended to read:

2902 499.0691 Criminal punishment for violations related to  
2903 drugs; dissemination of false advertisement.--

2904 (2) Any person who violates any of the following provisions  
2905 commits a felony of the third degree, punishable as provided in  
2906 s. 775.082, s. 775.083, or s. 775.084, or as otherwise provided  
2907 in ss. 499.001-499.081.

2908 (i) The purchase or sale of prescription drugs for  
2909 wholesale distribution in exchange for currency, as defined in s.  
2910 560.103 ~~s. 560.103(6)~~.

2911 Section 50. Paragraph (b) of subsection (2) of section  
2912 501.95, Florida Statutes, is amended to read:

2913 501.95 Gift certificates and credit memos.--

2914 (2)

2915 (b) Paragraph (a) does not apply to a gift certificate or  
2916 credit memo sold or issued by a financial institution, as defined  
2917 in s. 655.005, or by a money services business transmitter, as  
2918 defined in s. 560.103, if the gift certificate or credit memo is  
2919 redeemable by multiple unaffiliated merchants.

2920 Section 51. Paragraph (n) of subsection (2) of section  
2921 538.03, Florida Statutes, is amended to read:

2922 538.03 Definitions; applicability.--

2923 (2) This chapter does not apply to:

2924 (n) A business that contracts with other persons or  
2925 entities to offer its secondhand goods for sale, purchase,  
2926 consignment, or trade via an Internet website, and that maintains  
2927 a shop, store, or other business premises for this purpose, if  
2928 all of the following apply:

2929 1. The secondhand goods must be available on the website

20082158e1

2930 for viewing by the public at no charge;

2931       2. The records of the sale, purchase, consignment, or trade  
2932 must be maintained for at least 2 years;

2933       3. The records of the sale, purchase, consignment, or  
2934 trade, and the description of the secondhand goods as listed on  
2935 the website, must contain the serial number of each item, if any;

2936       4. The secondhand goods listed on the website must be  
2937 searchable based upon the state or zip code;

2938       5. The business must provide the appropriate law  
2939 enforcement agency with the name or names under which it conducts  
2940 business on the website;

2941       6. The business must allow the appropriate law enforcement  
2942 agency to inspect its business premises at any time during normal  
2943 business hours;

2944       7. Any payment by the business resulting from such a sale,  
2945 purchase, consignment, or trade must be made to the person or  
2946 entity with whom the business contracted to offer the goods and  
2947 must be made by check or via a money services business  
2948 ~~transmitter~~ licensed under part II of chapter 560; and

2949       8.a. At least 48 hours after the estimated time of  
2950 contracting to offer the secondhand goods, the business must  
2951 verify that any item having a serial number is not stolen  
2952 property by entering the serial number of the item into the  
2953 Department of Law Enforcement's stolen article database located  
2954 at the Florida Crime Information Center's public access system  
2955 website. The business shall record the date and time of such  
2956 verification on the contract covering the goods. If such  
2957 verification reveals that an item is stolen property, the  
2958 business shall immediately remove the item from any website on

20082158e1

2959 which it is being offered and notify the appropriate law  
2960 enforcement agency; or

2961 b. The business must provide the appropriate law  
2962 enforcement agency with an electronic copy of the name, address,  
2963 phone number, driver's license number, and issuing state of the  
2964 person with whom the business contracted to offer the goods, as  
2965 well as an accurate description of the goods, including make,  
2966 model, serial number, and any other unique identifying marks,  
2967 numbers, names, or letters that may be on an item, in a format  
2968 agreed upon by the business and the appropriate law enforcement  
2969 agency. This information must be provided to the appropriate law  
2970 enforcement agency within 24 hours after entering into the  
2971 contract unless other arrangements are made between the business  
2972 and the law enforcement agency.

2973 Section 52. Subsection (10) of section 896.101, Florida  
2974 Statutes, is amended to read:

2975 896.101 Florida Money Laundering Act; definitions;  
2976 penalties; injunctions; seizure warrants; immunity.--

2977 (10) Any financial institution, licensed money services  
2978 business ~~transmitter~~, or other person served with and complying  
2979 with the terms of a warrant, temporary injunction, or other court  
2980 order, including any subpoena issued under ~~the authority granted~~  
2981 ~~by~~ s. 16.56 or s. 27.04, obtained in furtherance of an  
2982 investigation of any crime in this section, including any crime  
2983 listed as specified unlawful activity under this section or any  
2984 felony violation of chapter 560, has immunity from criminal  
2985 liability and is ~~shall~~ not be liable to any person for any lawful  
2986 action taken in complying with the warrant, temporary injunction,  
2987 or other court order, including any subpoena issued under ~~the~~

20082158e1

2988 ~~authority granted by~~ s. 16.56 or s. 27.04. If any subpoena issued  
2989 under ~~the authority granted by~~ s. 16.56 or s. 27.04 contains a  
2990 nondisclosure provision, any financial institution, licensed  
2991 money services business transmitter, employee or officer of a  
2992 financial institution or licensed money services business  
2993 ~~transmitter~~, or any other person may not notify, directly or  
2994 indirectly, any customer of that financial institution or  
2995 ~~licensed~~ money services business transmitter whose records are  
2996 being sought by the subpoena, or any other person named in the  
2997 subpoena, about the existence or the contents of that subpoena or  
2998 about information that has been furnished to the state attorney  
2999 or statewide prosecutor who issued the subpoena or other law  
3000 enforcement officer named in the subpoena in response to the  
3001 subpoena.

3002 Section 53. Subsection (5) of section 896.104, Florida  
3003 Statutes, is amended to read:

3004 896.104 Structuring transactions to evade reporting or  
3005 registration requirements prohibited.--

3006 (5) INFERENCE.--Proof that a person engaged for monetary  
3007 consideration in the business of a money funds transmitter, as  
3008 defined in s. 560.103, ~~s. 560.103(10)~~ and who is transporting  
3009 more than \$10,000 in currency, or the foreign equivalent, without  
3010 being licensed ~~registered~~ as a money transmitter or designated as  
3011 an authorized vendor under ~~the provisions of~~ chapter 560, gives  
3012 rise to an inference that the transportation was done with  
3013 knowledge of the licensure ~~registration~~ requirements of chapter  
3014 560 and the reporting requirements of this chapter.

3015 Section 54. Paragraph (g) of subsection (3) of section  
3016 921.0022, Florida Statutes, is amended to read:



20082158e1

3017	921.0022	Criminal Punishment Code; offense severity ranking
3018	chart.--	
3019	(3)	OFFENSE SEVERITY RANKING CHART
3020	(g)	LEVEL 7
	Florida	Felony
	Statute	Degree
3021	316.027 (1) (b)	1st
		Accident involving death, failure to stop; leaving scene.
3022	316.193 (3) (c) 2.	3rd
		DUI resulting in serious bodily injury.
3023	316.1935 (3) (b)	1st
		Causing serious 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.

20082158e1

3024	327.35 (3) (c) 2.	3rd	Vessel BUI resulting in serious bodily injury.
3025	402.319 (2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
3026	409.920 (2)	3rd	Medicaid provider fraud.
3027	456.065 (2)	3rd	Practicing a health care profession without a license.
3028	456.065 (2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.

20082158e1

3029	458.327 (1)	3rd	Practicing medicine without a license.
3030	459.013 (1)	3rd	Practicing osteopathic medicine without a license.
3031	460.411 (1)	3rd	Practicing chiropractic medicine without a license.
3032	461.012 (1)	3rd	Practicing podiatric medicine without a license.
3033	462.17	3rd	Practicing naturopathy without a license.
3034	463.015 (1)	3rd	Practicing optometry without a license.
3035	464.016 (1)	3rd	Practicing nursing without a license.
3036	465.015 (2)	3rd	Practicing pharmacy without a license.

20082158e1

3037	466.026 (1)	3rd	Practicing dentistry or dental hygiene without a license.
3038	467.201	3rd	Practicing midwifery without a license.
3039	468.366	3rd	Delivering respiratory care services without a license.
3040	483.828 (1)	3rd	Practicing as clinical laboratory personnel without a license.
3041	483.901 (9)	3rd	Practicing medical physics without a license.
3042	484.013 (1) (c)	3rd	Preparing or dispensing optical devices without a prescription.
3043	484.053	3rd	Dispensing hearing aids without a

20082158e1

3044

494.0018 (2)

1st

license.

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.

3045

560.123 (8) (b) 1.

3rd

Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business ~~transmitter~~.

3046

560.125 (5) (a)

3rd

Money services ~~transmitter~~ business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.

3047

20082158e1

3048	655.50 (10) (b) 1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
3049	775.21 (10) (a)	3rd	Sexual predator; failure to register; failure to renew driver's license or identification card; other registration violations.
3050	775.21 (10) (b)	3rd	Sexual predator working where children regularly congregate.
3051	775.21 (10) (g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
	782.051 (3)	2nd	Attempted felony

20082158e1

3052	782.07 (1)	2nd	murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
3053	782.071	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
3054	782.072	2nd	Killing of a human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).
			Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).

20082158e1

3055	784.045 (1) (a) 1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
3056	784.045 (1) (a) 2.	2nd	Aggravated battery; using deadly weapon.
3057	784.045 (1) (b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
3058	784.048 (4)	3rd	Aggravated stalking; violation of injunction or court order.
3059	784.048 (7)	3rd	Aggravated stalking; violation of court order.
3060	784.07 (2) (d)	1st	Aggravated battery on law enforcement officer.
3061	784.074 (1) (a)	1st	Aggravated battery on sexually violent



20082158e1

			predators facility staff.
3062	784.08 (2) (a)	1st	Aggravated battery on a person 65 years of age or older.
3063	784.081 (1)	1st	Aggravated battery on specified official or employee.
3064	784.082 (1)	1st	Aggravated battery by detained person on visitor or other detainee.
3065	784.083 (1)	1st	Aggravated battery on code inspector.
3066	790.07 (4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
3067	790.16 (1)	1st	Discharge of a machine gun under specified

20082158e1

3068			circumstances.
	790.165 (2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
3069			
	790.165 (3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
3070			
	790.166 (3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
3071			
	790.166 (4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
3072			
	794.08 (4)	3rd	Female genital

20082158e1

3073	796.03	2nd	Procuring any person under 16 years for prostitution.
3074	800.04 (5) (c) 1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.
3075	800.04 (5) (c) 2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older.
3076	806.01 (2)	2nd	Maliciously damage structure by fire or explosive.
3077			

20082158e1

3078	810.02 (3) (a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
3079	810.02 (3) (b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
3080	810.02 (3) (d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
3081	810.02 (3) (e)	2nd	Burglary of authorized emergency vehicle.
	812.014 (2) (a) 1.	1st	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.

20082158e1

3082	812.014 (2) (b) 2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
3083	812.014 (2) (b) 3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
3084	812.014 (2) (b) 4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
3085	812.0145 (2) (a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
3086	812.019 (2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.

20082158e1

3087	812.131 (2) (a)	2nd	Robbery by sudden snatching.
3088	812.133 (2) (b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
3089	817.234 (8) (a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
3090	817.234 (9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
3091	817.234 (11) (c)	1st	Insurance fraud; property value \$100,000 or more.
3092	817.2341 (2) (b) & (3) (b)	1st	Making false entries of material fact or false statements regarding property

20082158e1

3093	825.102 (3) (b)	2nd	values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
3094	825.103 (2) (b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
3095	827.03 (3) (b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.
3096	827.04 (3)	3rd	Neglect of a child causing great bodily harm, disability, or disfigurement.
			Impregnation of a

20082158e1

3097			child under 16 years of age by person 21 years of age or older.
	837.05 (2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
3098			
	838.015	2nd	Bribery.
3099			
	838.016	2nd	Unlawful compensation or reward for official behavior.
3100			
	838.021 (3) (a)	2nd	Unlawful harm to a public servant.
3101			
	838.22	2nd	Bid tampering.
3102			
	847.0135 (3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
3103			



20082158e1

3104	847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
3105	872.06	2nd	Abuse of a dead human body.
3106	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 child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
	893.13(1)(e)1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a),

20082158e1

3107	893.13 (4) (a)	1st	(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.
3108	893.135 (1) (a) 1.	1st	Deliver to minor cocaine (or other s. 893.03 (1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c)4. drugs).
3109	893.135 (1) (b) 1.a.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
3110	893.135 (1) (c) 1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
			Trafficking in illegal drugs, more than 4 grams, less

20082158e1

3111	893.135 (1) (d) 1.	1st	than 14 grams. Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
3112	893.135 (1) (e) 1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
3113	893.135 (1) (f) 1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
3114	893.135 (1) (g) 1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
3115	893.135 (1) (h) 1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
3116			

20082158e1

3117	893.135 (1) (j) 1.a.	1st	Trafficking in 1,4- Butanediol, 1 kilogram or more, less than 5 kilograms.
3118	893.135 (1) (k) 2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
3119	896.101 (5) (a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
3120	896.104 (4) (a) 1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
	943.0435 (4) (c)	2nd	Sexual offender vacating permanent

20082158e1

3121	943.0435(8)	2nd	residence; failure to comply with reporting requirements.
3122	943.0435(9)(a)	3rd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
3123	943.0435(13)	3rd	Sexual offender; failure to comply with reporting requirements.
3124	943.0435(14)	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

20082158e1

			to address verification.
3125	944.607(9)	3rd	Sexual offender; failure to comply with reporting requirements.
3126	944.607(10)(a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
3127	944.607(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
3128	944.607(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
3129	985.4815(10)	3rd	Sexual offender;

20082158e1

3130	985.4815(12)	3rd	failure to submit to the taking of a digitized photograph.
3131	985.4815(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
3132			
3133			Section 55. <u>Sections 560.101, 560.102, 560.106, 560.1073,</u>
3134			<u>560.108, 560.112. 560.117, 560.200, 560.202, 560.206, 560.207,</u>
3135			<u>560.301, 560.302, 560.305, 560.306, 560.307, 560.308, 560.401,</u>
3136			<u>and 560.407, Florida Statutes, are repealed.</u>
3137			Section 56. This act shall take effect January 1, 2009.