

By Senator Constantine

22-00445-08

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1 A bill to be entitled

2 An act relating to the Money Transmitters' Code; amending  
3 s. 560.113, F.S.; authorizing the circuit court to order a  
4 receivership and restitution of money as remedies for  
5 persons injured due to a violation of the code; requiring  
6 that relief be granted without bond; amending s. 560.114,  
7 F.S.; providing that a violation of any law enforced by  
8 the Office of Financial Regulation is also a violation of  
9 the Money Transmitters' Code; amending s. 560.402, F.S.;  
10 defining the terms "check" and "engage in a deferred  
11 presentment transaction"; creating s. 560.4031, F.S.;  
12 providing that any deferred presentment transaction  
13 entered into by a drawer with a nonexempt person who is  
14 not registered under ch. 560, F.S., is void; providing  
15 penalties and civil remedies; providing that it is a  
16 felony of the third degree to collect on any deferred  
17 presentment transaction known to be void; providing  
18 criminal penalties; providing an effective date.

19  
20 Be It Enacted by the Legislature of the State of Florida:

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22 Section 1. Section 560.113, Florida Statutes, is amended to  
23 read:

24 560.113 Injunctions; receiverships; restitution.--Whenever  
25 a violation of the code is threatened or impending and such  
26 violation will cause substantial injury to any person, the  
27 circuit court has jurisdiction to hear any complaint filed by the  
28 office and, upon proper showing, to issue an injunction  
29 restraining such violation, to appoint a receiver, to enter an

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30 order of restitution, or to grant ~~granting~~ other such appropriate  
31 relief. Any relief, including injunctive relief, granted pursuant  
32 to this section shall be granted without bond.

33 Section 2. Paragraph (z) is added to subsection (1) of  
34 section 560.114, Florida Statutes, to read:

35 560.114 Disciplinary actions.--

36 (1) The following actions by a money transmitter or money  
37 transmitter-affiliated party are violations of the code and  
38 constitute grounds for the issuance of a cease and desist order,  
39 the issuance of a removal order, the denial of a registration  
40 application or the suspension or revocation of any registration  
41 previously issued pursuant to the code, or the taking of any  
42 other action within the authority of the office pursuant to the  
43 code:

44 (z) Committing a violation of any other chapter  
45 administered or enforced by the office.

46 Section 3. Subsection (7) of section 560.402, Florida  
47 Statutes, is amended, and subsections (12) and (13) are added to  
48 that section, to read:

49 560.402 Definitions.--In addition to the definitions  
50 provided in ss. 560.103, 560.202, and 560.302 and unless  
51 otherwise clearly indicated by the context, for purposes of this  
52 part:

53 (7) "Drawer" means any natural person who writes a ~~personal~~  
54 check and upon whose account the check is drawn.

55 (12) "Check" has the same meaning as in s. 673.1041, or  
56 means any written authorization by a drawer to execute an  
57 automated clearinghouse debit transaction.

58 (13) "Engage in a deferred presentment transaction" means

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59 entering into or offering to enter into a deferred presentment  
60 transaction at or from offices in this state, or to persons in  
61 this state from offices outside the state, by mail, Internet, or  
62 otherwise.

63 Section 4. Section 560.4031, Florida Statutes, is created  
64 to read:

65 560.4031 Remedies for deferred presentment transactions  
66 engaged in without registration.--

67 (1) Any deferred presentment transaction entered into by a  
68 drawer with a person who is not exempt from this chapter and who  
69 is not registered under this chapter is void. In such cases, the  
70 person, or any agent, officer, or representative of the person,  
71 forfeits all moneys provided and fees charged to the drawer and  
72 may not collect any moneys or fees on the deferred presentment  
73 transaction.

74 (2) A drawer may recover in a civil action or arbitration  
75 three times the amount of the moneys and fees actually collected  
76 by a person pursuant to a deferred presentment transaction that  
77 is void under subsection (1).

78 (3) A deferred presentment transaction engaged in by a  
79 prior registrant under this part whose registration has  
80 inadvertently lapsed within the year preceding the date of the  
81 transaction is not void under this section unless the prior  
82 registrant continued to engage in such transactions knowing its  
83 registration had lapsed.

84 (4) Any person who willfully attempts to collect on any  
85 deferred presentment transaction that he or she knows to be void  
86 under subsection (1) commits a felony of the third degree,  
87 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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Section 5. This act shall take effect July 1, 2008.