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LEGISLATIVE ACTION

Senate

.

House

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Floor: 3/AD/2R

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04/29/2010 10:40 AM

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Senator Storms moved the following:

Senate Amendment (with title amendment)

Delete lines 408 - 424

and insert:

Section 5. Subsections (19) and (26) of section 560.103, Florida Statutes, are amended, present subsections (28) through (30) of that section are redesignated as subsections (29) through (31), respectively, and a new subsection (28) is added to that section, to read:

560.103 Definitions.—As used in this chapter, the term:

(19) "Money transmitter" means a person who ~~corporation, limited liability company, limited liability partnership, or foreign entity qualified to do business in this state which~~



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14 receives currency, monetary value, or payment instruments for
15 the purpose of transmitting the same by any means, including
16 transmission by wire, facsimile, electronic transfer, courier,
17 the Internet, or through bill payment services or other
18 businesses that facilitate such transfer within this country, or
19 to or from this country.

20 (26) "Payment instrument seller" means a person who
21 ~~corporation, limited liability company, limited liability~~
22 ~~partnership, or foreign entity qualified to do business in this~~
23 ~~state which~~ sells a payment instrument.

24 (28) "Proceeds" means any property derived from or obtained
25 or retained, directly or indirectly, through some form of
26 unlawful activity, including the gross receipts of such
27 activity.

28 Section 6. Subsection (8) of section 560.123, Florida
29 Statutes, is amended to read:

30 560.123 Florida Control of Money Laundering in Money
31 Services Business Act.—

32 (8) (a) Except as provided in paragraph (b), a person who
33 willfully violates or causes another to violate ~~any provision of~~
34 this section commits a misdemeanor of the first degree,
35 punishable as provided in s. 775.082 or s. 775.083.

36 (b) A person who willfully violates or cause another to
37 violate ~~any provision of~~ this section, if the violation
38 involves:

39 1. Currency or payment instruments valued at ~~exceeding \$300~~
40 ~~but~~ less than \$20,000 ~~in any 12-month period~~, commits a felony
41 of the third degree, punishable as provided in s. 775.082, s.
42 775.083, or s. 775.084.



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43 2. Currency or payment instruments valued at ~~totaling or~~
44 ~~exceeding~~ \$20,000 or more but less than \$100,000 ~~in any 12-month~~
45 ~~period~~, commits a felony of the second degree, punishable as
46 provided in s. 775.082, s. 775.083, or s. 775.084.

47 3. Currency or payment instruments valued at ~~totaling or~~
48 ~~exceeding~~ \$100,000 or more ~~in any 12-month period~~, commits a
49 felony of the first degree, punishable as provided in s.
50 775.082, s. 775.083, or s. 775.084.

51 (c) In addition to the penalties authorized by s. 775.082,
52 s. 775.083, or s. 775.084, a person who has been convicted of,
53 or entered a plea of guilty or nolo contendere, regardless of
54 adjudication, to having violated paragraph (b) may be sentenced
55 to pay a fine of up to \$250,000 or twice the value of the
56 currency or payment instruments, whichever is greater, except
57 that on a second or subsequent conviction for or plea of guilty
58 or nolo contendere, regardless of adjudication, to a violation
59 of paragraph (b), the fine may be up to \$500,000 or quintuple
60 the value of the currency or payment instruments, whichever is
61 greater.

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

65 Section 7. Subsection (5) of section 560.125, Florida
66 Statutes, is amended to read

67 560.125 Unlicensed activity; penalties.—

68 (5) A person who violates or causes another to violate this
69 section, if the violation involves:

70 (a) Currency or payment instruments valued at ~~exceeding~~
71 ~~\$300 but~~ less than \$20,000 ~~in any 12-month period~~, commits a



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72 felony of the third degree, punishable as provided in s.
73 775.082, s. 775.083, or s. 775.084.

74 (b) Currency or payment instruments valued at ~~totaling or~~
75 ~~exceeding~~ \$20,000 but less than \$100,000 ~~in any 12-month period,~~
76 commits a felony of the second degree, punishable as provided in
77 s. 775.082, s. 775.083, or s. 775.084.

78 (c) Currency or payment instruments valued at ~~totaling or~~
79 ~~exceeding~~ \$100,000 or more ~~in any 12-month period,~~ commits a
80 felony of the first degree, punishable as provided in s.
81 775.082, s. 775.083, or s. 775.084.

82 Section 8. Subsection (3) is added to section 560.204,
83 Florida Statutes, to read:

84 560.204 License required.-

85 (3) A natural person who is acting as a money transmitter
86 or payment instrument issuer may not be licensed as a sole
87 proprietorship. A natural person may not act as a money
88 transmitter or payment instrument issuer, except as an employee,
89 officer, or director of a corporation, limited liability
90 company, limited liability partnership, or foreign entity
91 qualified to do business in this state and licensed under this
92 part. An natural person who violates this subsection engages in
93 unlicensed activity pursuant to s. 560.125.

94
95 ===== T I T L E A M E N D M E N T =====

96 And the title is amended as follows:

97 Delete lines 2 - 75

98 and insert:

99 An act relating to money laundering; amending s.

100 895.02, F.S.; defining the term "prosecuting



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101 authority" for purposes of the Florida RICO Act;
102 creating s. 895.025, F.S.; providing that the act be
103 liberally construed to achieve the remedial purposes
104 of curtailing racketeering activities and lessening
105 the economic power of criminal organizations engaged
106 in patterns of racketeering activities in this state;
107 creating s. 895.041, F.S.; providing that in addition
108 to any criminal penalties imposed on a person due to a
109 pattern of racketeering activities, the person shall
110 forfeit to the state any interest in property that he
111 or she has acquired in violation of the racketeering
112 laws, including property of an enterprise that the
113 person has established, operated, or controlled, and
114 property derived from proceeds that the person
115 obtained, directly or indirectly, from racketeering
116 activities or unlawful debt collection practices;
117 providing that property subject to forfeiture vests in
118 the state when the person commits the act that
119 violates the racketeering laws; authorizing a court to
120 issue a temporary injunction, require the execution of
121 a satisfactory performance bond, or to take any other
122 action to preserve the availability and quality of the
123 property that is subject to forfeiture; providing that
124 the state may apply for a temporary restraining order,
125 without notice or opportunity for a hearing by the
126 defendant, under certain circumstances; requiring the
127 temporary restraining order to expire within a
128 specified period, unless extended for good cause
129 shown; requiring the court, upon the conviction of the



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130 defendant, to enter an order forfeiting the property
131 to the state and authorizing the prosecuting authority
132 to seize all forfeited property upon such terms and
133 conditions as the court deems proper; requiring the
134 prosecuting authority to dispose of the forfeited
135 property by sale or any other commercially feasible
136 means, making due provision for the rights of any
137 innocent persons; authorizing the prosecuting
138 authority to dispose of forfeited property by
139 specified means; authorizing the Attorney General to
140 adopt rules; prohibiting a party claiming an interest
141 in property that is subject to forfeiture from
142 intervening in a trial or appeal of a criminal case
143 involving the forfeited property or commencing an
144 action at law or equity against the state concerning
145 the validity of his or her claimed interest in the
146 forfeited property; providing an exception; requiring
147 the state to publish notice of the forfeiture order
148 and of its intent to dispose of the forfeited
149 property; providing that the state may also, to the
150 extent practicable, provide direct written notice to
151 any person who is known to claim an interest in the
152 forfeited property; providing that any person, other
153 than the defendant, who asserts a claim to the
154 forfeited property may petition the court for a
155 hearing to adjudicate the validity of his or her claim
156 to the forfeited property; providing that the hearing
157 be conducted without a jury; permitting the petitioner
158 to testify and present evidence and witnesses on his



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159 or her own behalf and cross-examine witnesses who
160 appear at the hearing; requiring the petitioner to
161 prove by a preponderance of the evidence that he or
162 she has a legal claim or interest in the forfeited
163 property superior to the state or any other person or
164 that the petitioner is a bona fide purchaser; amending
165 s. 896.101, F.S.; defining the term "proceeds" for
166 purposes of the Florida Money Laundering Act;
167 providing that a person who, without permission,
168 notifies another person of certain specified
169 forfeiture information is subject to a fine for each
170 unauthorized disclosure; amending s. 560.103, F.S.;
171 revising definitions relating to money services
172 businesses; amending s. 560.123, F.S.; revising
173 criminal penalties under the Florid Control of Money
174 Laundering in Money Services Business Act; amending s.
175 560.125, F.S., relating to penalties for unlicensed
176 activities; conforming provisions to changes made by
177 the act; amending s. 560.204, F.S.; prohibiting a
178 natural person from being licensed as a sole
179 proprietorship or engaging in certain activities;