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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/07/2012	.	
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The Committee on Banking and Insurance (Gaetz) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsections (9) and (10) of section 560.103, Florida Statutes, are renumbered as subsections (11) and (12), respectively, present subsections (11) through (14) are renumbered as subsections (14) through (17), respectively, present subsections (15) through (27) are renumbered as subsections (19) through (31), respectively, present subsections (28) through (30) are renumbered as subsections (33) through (35), respectively, and new subsections (9), (10), (13), (18),



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13 and (32), are added to that section, to read:

14 560.103 Definitions.—As used in this chapter, the term:

15 (9) "Conductor" means a natural person who presents himself
16 or herself to a licensee for purposes of cashing a payment
17 instrument.

18 (10) "Corporate payment instrument" means a payment
19 instrument on which the payee named on the instrument's face is
20 other than a natural person.

21 (13) "Department" means the Department of Financial
22 Services.

23 (18) "Fraudulent identification paraphernalia" means all
24 equipment, products, or materials of any kind that are used,
25 intended for use, or designed for use in the misrepresentation
26 of a customer's identity. The term includes, but is not limited
27 to:

28 (a) A signature stamp, thumbprint stamp, or other tool or
29 device used to forge a customer's personal identification
30 information.

31 (b) An original of any type of personal identification
32 listed in s. 560.310(2)(b) which is blank, stolen, or unlawfully
33 issued.

34 (c) A blank, forged, fictitious, or counterfeit instrument
35 in the similitude of any type of personal identification listed
36 in s. 560.310(2)(b) which would in context lead a reasonably
37 prudent person to believe that such instrument is an authentic
38 original of such personal identification.

39 (d) Counterfeit, fictitious, or fabricated information in
40 the similitude of a customer's personal identification
41 information that, although not authentic, would in context lead



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42 a reasonably prudent person to credit its authenticity.

43 (32) "Personal identification information" means a
44 customer's name that, alone or together with any of the
45 following information, may be used to identify that specific
46 customer:

47 (a) Customer's signature.

48 (b) Photograph, digital image, or other likeness of the
49 customer.

50 (c) Unique biometric data, such as the customer's
51 thumbprint or fingerprint, voice print, retina or iris image, or
52 other unique physical representation of the customer.

53 Section 2. Subsections (1) and (7) of section 560.109,
54 Florida Statutes, are amended to read:

55 560.109 Examinations and investigations.—The office may
56 conduct examinations and investigations, within or outside this
57 state to determine whether a person has violated any provision
58 of this chapter and related rules, or of any practice or conduct
59 that creates the likelihood of material loss, insolvency, or
60 dissipation of the assets of a money services business or
61 otherwise materially prejudices the interests of their
62 customers.

63 (1) The office may, without advance notice, examine or
64 investigate each licensee as often as is warranted for the
65 protection of customers and in the public interest. However, the
66 office must examine each licensee, but at least once every 5
67 years. A new licensee shall be examined within 6 months after
68 the issuance of the license. The office shall provide at least
69 15 days' notice to a money services business, its authorized
70 vendor, or license applicant before conducting an examination or



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71 ~~investigation. However,~~ The office may, without advance notice,
72 examine ~~conduct an examination~~ or investigate ~~investigation~~ of a
73 money services business, authorized vendor, ~~or~~ affiliated party,
74 or license applicant at any time ~~and without advance notice~~ if
75 the office suspects that the money services business, authorized
76 vendor, ~~or~~ affiliated party, or license applicant has violated
77 or is about to violate any provision ~~provisions~~ of this chapter
78 or any criminal law ~~laws~~ of this state or of the United States.

79 (7) Reasonable and necessary costs incurred by the office
80 or third parties authorized by the office in connection with
81 examinations or investigations may be assessed against any
82 person subject to this chapter on the basis of actual costs
83 incurred. Assessable expenses include, but are not limited to,
84 expenses for: interpreters; certified translations of documents
85 into the English language required by this chapter or related
86 rules; communications; legal representation; economic, legal, or
87 other research, analyses, and testimony; and fees and expenses
88 for witnesses. The failure to reimburse the office is a ground
89 for denial of a license application, denial of a license
90 renewal, or for revocation of any approval thereof. Except for
91 examinations authorized under this section ~~s. 560.109~~, costs may
92 not be assessed against a person unless the office determines
93 that the person has operated or is operating in violation of
94 this chapter.

95 Section 3. Paragraph (g) is added to subsection (1) of
96 section 560.111, Florida Statutes, subsection (3) is renumbered
97 as subsection (4), present subsection (4) is renumbered as
98 subsection (5) and amended, and a new subsection (3) is added to
99 that section, to read:



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100 560.111 Prohibited acts.—

101 (1) A money services business, authorized vendor, or
102 affiliated party may not:

103 (g) Knowingly possess any fraudulent identification
104 paraphernalia. This paragraph does not prohibit the maintenance
105 and retention of any records required by this chapter.

106 (3) A person other than the conductor of a payment
107 instrument may not provide a licensee engaged in cashing the
108 payment instrument with the customer's personal identification
109 information.

110 (5)~~(4)~~ Any person who willfully violates any provision of
111 s. 560.311(1), s. 560.403, s. 560.404, or s. 560.405 commits a
112 felony of the third degree, punishable as provided in s.
113 775.082, s. 775.083, or s. 775.084.

114 Section 4. Paragraph (h) of subsection (1) of section
115 560.114, Florida Statutes, is reenacted, paragraphs (aa), (bb),
116 and (cc) are added to that subsection, and subsection (2) of
117 that section is amended, to read:

118 560.114 Disciplinary actions; penalties.—

119 (1) The following actions by a money services business,
120 authorized vendor, or affiliated party constitute grounds for
121 the issuance of a cease and desist order; the issuance of a
122 removal order; the denial, suspension, or revocation of a
123 license; or taking any other action within the authority of the
124 office pursuant to this chapter:

125 (h) Engaging in an act prohibited under s. 560.111.

126 (aa) Failure of a check casher to maintain a federally
127 insured depository account as required by s. 560.309.

128 (bb) Failure of a check casher to deposit into its own



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129 federally insured depository account any payment instrument
130 cash as required by s. 560.309.

131 (cc) Failure to submit transaction information to the
132 office as required by s. 560.311 for any payment instrument
133 cash.

134 (2) The office may immediately suspend the license of any
135 money services business if the money services business fails to:

136 (a) Provide to the office, upon written request, any of the
137 records required by s. ~~ss.~~ 560.123, s. 560.1235, s. 560.211, or
138 s. and 560.310 or any rule adopted under those sections. The
139 suspension may be rescinded if the licensee submits the
140 requested records to the office.

141 (b) Maintain a federally insured depository account as
142 required by s. 560.309.

143 (c) Submit transaction information to the office as
144 required by s. 560.311 for any payment instrument cashed.

145
146 For purposes of s. 120.60(6), failure to perform ~~provide~~ any of
147 the acts specified in this subsection ~~above-mentioned records~~
148 constitutes immediate and serious danger to the public health,
149 safety, and welfare.

150 Section 5. Subsection (4) is added to section 560.126,
151 Florida Statutes, to read:

152 560.126 Required notice by licensee.-

153 (4) A licensee that engages in check cashing must notify
154 the office within 5 business days after the licensee ceases to
155 maintain a federally insured depository account as required by
156 s. 560.309(3) and, before resuming check cashing, must
157 reestablish such an account and notify the office of the



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158 account.

159 Section 6. Subsections (3), (4), and (8) of section
160 560.309, Florida Statutes, are amended to read:

161 560.309 Conduct of business.—

162 (3) A licensee under this part must maintain and deposit
163 payment instruments into its own a commercial account at a
164 federally insured financial institution. If a licensee ceases to
165 maintain such a depository account, the licensee must not engage
166 in check cashing until the licensee reestablishes such an
167 account and notifies the office of the account as required by s.
168 560.126(4) or sell payment instruments within 5 business days
169 after the acceptance of the payment instrument.

170 (4) A licensee may not accept or cash a ~~multiple~~ payment
171 instrument ~~instruments~~ from a conductor ~~person~~ who is not the
172 original payee, ~~unless the person is licensed to cash payment~~
173 ~~instruments pursuant to this part and all payment instruments~~
174 ~~accepted are endorsed with the legal name of the person.~~
175 However, this subsection does not prohibit a licensee from
176 accepting or cashing a corporate payment instrument from a
177 conductor who is an authorized officer of the corporate payee
178 named on the instrument's face.

179 (8) Exclusive of the direct costs of verification, which
180 shall be established by rule not to exceed \$5, a check casher
181 may not:

182 (a) Charge fees, except as otherwise provided by this part,
183 in excess of 5 percent of the face amount of the payment
184 instrument, or \$5, whichever is greater;

185 (b) Charge fees in excess of 3 percent of the face amount
186 of the payment instrument, or \$5, whichever is greater, if such



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187 payment instrument is the payment of any kind of state public
188 assistance or federal social security benefit payable to the
189 bearer of the payment instrument; or

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

193 Section 7. Section 560.310, Florida Statutes, is amended to
194 read:

195 560.310 Records of check cashers and foreign currency
196 exchangers.—

197 (1) ~~In addition to the record retention requirements~~
198 ~~specified in s. 560.1105,~~ A licensee engaged in check cashing
199 must maintain for the period specified in s. 560.1105 a copy of
200 each payment instrument cashed.

201 (2) If the payment instrument exceeds \$1,000, the following
202 additional information must be maintained ~~the following:~~

203 (a) Customer files, as prescribed by rule, on all customers
204 who cash corporate ~~or third-party~~ payment instruments that
205 exceed ~~exceeding~~ \$1,000.

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

208 ~~1.~~ A copy of the personal identification that bears a
209 photograph of the customer used as identification and presented
210 by the customer. Acceptable personal identification is limited
211 to a valid driver ~~driver's~~ license; a state identification card
212 issued by any state of the United States or its territories or
213 the District of Columbia, and showing a photograph and
214 signature; a United States Government Resident Alien
215 Identification Card; a passport; or a United States Military



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216 identification card.

217 (c)2. A thumbprint of the customer taken by the licensee
218 when the payment instrument is presented for negotiation or
219 payment.

220 ~~(c) A payment instrument log that must be maintained~~
221 ~~electronically as prescribed by rule. For purposes of this~~
222 ~~paragraph, multiple payment instruments accepted from any one~~
223 ~~person on any given day which total \$1,000 or more must be~~
224 ~~aggregated and reported on the log.~~

225 (3)(2) A licensee under this part may engage the services
226 of a third party that is not a depository institution for the
227 maintenance and storage of records required by this section if
228 all the requirements of this section are met.

229 Section 8. Section 560.311, Florida Statutes, is created to
230 read:

231 560.311 Reporting of payment instruments cashed; database
232 of payment instrument transactions.-

233 (1) A licensee that cashes a payment instrument that
234 exceeds \$1,000 must submit the following transaction information
235 about the payment instrument to the office within the time and
236 in the format and manner prescribed by commission rule:

237 (a) Transaction date.

238 (b) Payor name.

239 (c) Payee name.

240 (d) Conductor name, if different from the payee name.

241 (e) Amount of the payment instrument.

242 (f) Amount of the currency provided.

243 (g) Type of payment instrument, which may include, as
244 prescribed by commission rule, but is not limited to, a personal



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245 check, payroll check, government check, corporate check, or
246 third-party check.

247 (h) Location or branch where the payment instrument is
248 accepted.

249 (i) Payee's workers' compensation policy number, if the
250 payment instrument is a corporate payment instrument.

251 (j) Any other transaction information that may be required
252 by commission rule.

253
254 Multiple payment instruments accepted from any one conductor on
255 any given day that exceeds \$1,000 must be aggregated and
256 reported to the office through the payment instrument database.

257 (2) (a) The office shall establish and administer a
258 centralized database that maintains and provides real-time
259 access to the transaction information submitted to the office
260 under subsection (1). The commission may require licensees to
261 submit the transaction information through the Internet or by
262 other electronic means that provide for inclusion of the
263 submitted information in the database.

264 (b) The office shall design and administer the database to
265 interface with other government databases, including, but not
266 limited to:

267 1. The department's workers' compensation proof of coverage
268 database.

269 2. The Department of State's database of corporations,
270 partnerships, limited liability companies, corporations not for
271 profit, trusts, associations, cooperatives, and other business
272 organizations registered with the Department of State.

273 (3) The commission shall adopt rules requiring a licensee



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274 to remit to the office a transaction fee, as part of the direct
275 costs of verification authorized under s. 560.309(8), not to
276 exceed \$3 per transaction submitted under subsection (1) to
277 establish and administer the database required by this section.

278 (4) The commission may adopt rules to administer this
279 section, including, but not limited to, rules governing the
280 operation and security of the database.

281 Section 9. This act shall take effect July 1, 2012.

282
283 ===== T I T L E A M E N D M E N T =====

284 And the title is amended as follows:

285 Delete everything before the enacting clause
286 and insert:

287 A bill to be entitled
288 An act relating to money services businesses; amending
289 s. 560.103, F.S.; defining terms for purposes of
290 provisions regulating money services businesses;
291 amending s. 560.109, F.S.; revising the frequency and
292 notice requirements for examinations and
293 investigations by the Office of Financial Regulation
294 of money services business licensees; amending s.
295 560.111, F.S.; prohibiting money services businesses,
296 authorized vendors, and affiliated parties from
297 knowingly possessing certain paraphernalia used or
298 intended or designed for use in misrepresenting a
299 customer's identity, for which penalties apply;
300 prohibiting certain persons from providing a
301 customer's personal identification information to a
302 money services business licensee and providing



303 penalties; reenacting s. 560.114(1)(h), F.S., relating
304 to penalties for certain prohibited acts by money
305 services businesses, to incorporate the amendment made
306 by the act to s. 560.111, F.S., in a reference
307 thereto; amending s. 560.114, F.S.; prohibiting
308 certain acts by money services businesses, authorized
309 vendors, and affiliated parties, for which penalties
310 apply; revising the conditions for which a money
311 services business license may be suspended; amending
312 ss. 560.126 and 560.309, F.S.; requiring a money
313 services business licensee to maintain its own
314 federally insured depository account and deposit into
315 the account any payment instruments cashed; requiring
316 a licensee to notify the office and cease to cash
317 payment instruments if the licensee ceases to maintain
318 the account; prohibiting a licensee from accepting or
319 cashing a payment instrument from a conductor who is
320 not the original payee; authorizing a licensee to
321 accept or cash a corporate payment instrument from
322 certain conductors; establishing a limit on the amount
323 of fees that licensees may charge for the direct costs
324 of verification of payment instruments cashed;
325 amending s. 560.310, F.S.; revising requirements for
326 the records that a money services business licensee
327 must maintain related to the payment instruments
328 cashed; creating s. 560.311, F.S.; requiring money
329 services business licensees to submit certain
330 transaction information to the Office of Financial
331 Regulation related to the payment instruments cashed;



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332 requiring the office to maintain the transaction
333 information in a centralized database; authorizing the
334 Financial Services Commission to prescribe the time,
335 format, and manner for licensees to submit the
336 transaction information; requiring that the database
337 be designed to interface with certain other state
338 databases; providing a transaction fee for the
339 submission of transaction information; authorizing the
340 commission to adopt rules for the operation and
341 security of the database; providing an effective date.