

By the Committee on Banking and Insurance; and Senator Thrasher

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1 A bill to be entitled
2 An act relating to money services businesses; amending
3 s. 560.103, F.S.; defining terms for purposes of
4 provisions regulating money services businesses;
5 amending s. 560.109, F.S.; revising the frequency and
6 notice requirements for examinations and
7 investigations by the Office of Financial Regulation
8 of money services business licensees; amending s.
9 560.111, F.S.; prohibiting money services businesses,
10 authorized vendors, and affiliated parties from
11 knowingly possessing certain paraphernalia used or
12 intended or designed for use in misrepresenting a
13 customer's identity, for which penalties apply;
14 prohibiting certain persons from providing a
15 customer's personal identification information to a
16 money services business licensee and providing
17 penalties; reenacting s. 560.114(1)(h), F.S., relating
18 to penalties for certain prohibited acts by money
19 services businesses, to incorporate the amendment made
20 by the act to s. 560.111, F.S., in a reference
21 thereto; amending s. 560.114, F.S.; prohibiting
22 certain acts by money services businesses, authorized
23 vendors, and affiliated parties, for which penalties
24 apply; revising the conditions for which a money
25 services business license may be suspended; amending
26 ss. 560.126 and 560.309, F.S.; requiring a money
27 services business licensee to maintain its own
28 federally insured depository account and deposit into
29 the account any payment instruments cashed; requiring

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30 a licensee to notify the office and cease to cash
31 payment instruments if the licensee ceases to maintain
32 the account; prohibiting a licensee from accepting or
33 cashing a payment instrument from a conductor who is
34 not the original payee; authorizing a licensee to
35 accept or cash a corporate payment instrument from
36 certain conductors; establishing a limit on the amount
37 of fees that licensees may charge for the direct costs
38 of verification of payment instruments cashed;
39 amending s. 560.310, F.S.; revising requirements for
40 the records that a money services business licensee
41 must maintain related to the payment instruments
42 cashed; creating s. 560.311, F.S.; requiring money
43 services business licensees to submit certain
44 transaction information to the Office of Financial
45 Regulation related to the payment instruments cashed;
46 requiring the office to maintain the transaction
47 information in a centralized database; authorizing the
48 Financial Services Commission to prescribe the time,
49 format, and manner for licensees to submit the
50 transaction information; requiring that the database
51 be designed to interface with certain other state
52 databases; providing a transaction fee for the
53 submission of transaction information; authorizing the
54 commission to adopt rules for the operation and
55 security of the database; providing an effective date.

56
57 Be It Enacted by the Legislature of the State of Florida:
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59 Section 1. Subsections (9) and (10) of section 560.103,
60 Florida Statutes, are renumbered as subsections (11) and (12),
61 respectively, present subsections (11) through (14) are
62 renumbered as subsections (14) through (17), respectively,
63 present subsections (15) through (27) are renumbered as
64 subsections (19) through (31), respectively, present subsections
65 (28) through (30) are renumbered as subsections (33) through
66 (35), respectively, and new subsections (9), (10), (13), (18),
67 and (32), are added to that section, to read:

68 560.103 Definitions.—As used in this chapter, the term:

69 (9) "Conductor" means a natural person who presents himself
70 or herself to a licensee for purposes of cashing a payment
71 instrument.

72 (10) "Corporate payment instrument" means a payment
73 instrument on which the payee named on the instrument's face is
74 other than a natural person.

75 (13) "Department" means the Department of Financial
76 Services.

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

82 (a) A signature stamp, thumbprint stamp, or other tool or
83 device used to forge a customer's personal identification
84 information.

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

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

93 (d) Counterfeit, fictitious, or fabricated information in
94 the similitude of a customer's personal identification
95 information that, although not authentic, would in context lead
96 a reasonably prudent person to credit its authenticity.

97 (32) "Personal identification information" means a
98 customer's name that, alone or together with any of the
99 following information, may be used to identify that specific
100 customer:

101 (a) Customer's signature.

102 (b) Photograph, digital image, or other likeness of the
103 customer.

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

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

109 560.109 Examinations and investigations.—The office may
110 conduct examinations and investigations, within or outside this
111 state to determine whether a person has violated any provision
112 of this chapter and related rules, or of any practice or conduct
113 that creates the likelihood of material loss, insolvency, or
114 dissipation of the assets of a money services business or
115 otherwise materially prejudices the interests of their
116 customers.

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117 (1) The office may, without advance notice, examine or
118 investigate each licensee as often as is warranted for the
119 protection of customers and in the public interest. However, the
120 office must examine each licensee, but at least once every 5
121 years. ~~A new licensee shall be examined within 6 months after~~
122 ~~the issuance of the license. The office shall provide at least~~
123 ~~15 days' notice to a money services business, its authorized~~
124 ~~vendor, or license applicant before conducting an examination or~~
125 ~~investigation. However,~~ The office may, without advance notice,
126 examine ~~conduct an examination or investigate~~ investigation of a
127 money services business, authorized vendor, ~~or~~ affiliated party,
128 or license applicant at any time ~~and without advance notice~~ if
129 the office suspects that the money services business, authorized
130 vendor, ~~or~~ affiliated party, or license applicant has violated
131 or is about to violate any provision ~~provisions~~ of this chapter
132 or any criminal law ~~laws~~ of this state or of the United States.

133 (7) Reasonable and necessary costs incurred by the office
134 or third parties authorized by the office in connection with
135 examinations or investigations may be assessed against any
136 person subject to this chapter on the basis of actual costs
137 incurred. Assessable expenses include, but are not limited to,
138 expenses for: interpreters; certified translations of documents
139 into the English language required by this chapter or related
140 rules; communications; legal representation; economic, legal, or
141 other research, analyses, and testimony; and fees and expenses
142 for witnesses. The failure to reimburse the office is a ground
143 for denial of a license application, denial of a license
144 renewal, or for revocation of any approval thereof. Except for
145 examinations authorized under this section ~~s. 560.109~~, costs may

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146 not be assessed against a person unless the office determines
147 that the person has operated or is operating in violation of
148 this chapter.

149 Section 3. Paragraph (g) is added to subsection (1) of
150 section 560.111, Florida Statutes, subsection (3) is renumbered
151 as subsection (4), present subsection (4) is renumbered as
152 subsection (5) and amended, and a new subsection (3) is added to
153 that section, to read:

154 560.111 Prohibited acts.—

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

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

160 (3) A person other than the conductor of a payment
161 instrument may not provide a licensee engaged in cashing the
162 payment instrument with the customer's personal identification
163 information.

164 (5)~~(4)~~ Any person who willfully violates any provision of
165 s. 560.311(1), s. 560.403, s. 560.404, or s. 560.405 commits a
166 felony of the third degree, punishable as provided in s.
167 775.082, s. 775.083, or s. 775.084.

168 Section 4. Paragraph (h) of subsection (1) of section
169 560.114, Florida Statutes, is reenacted, paragraphs (aa), (bb),
170 and (cc) are added to that subsection, and subsection (2) of
171 that section is amended, to read:

172 560.114 Disciplinary actions; penalties.—

173 (1) The following actions by a money services business,
174 authorized vendor, or affiliated party constitute grounds for

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175 the issuance of a cease and desist order; the issuance of a
176 removal order; the denial, suspension, or revocation of a
177 license; or taking any other action within the authority of the
178 office pursuant to this chapter:

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

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

182 (bb) Failure of a check casher to deposit into its own
183 federally insured depository account any payment instrument
184 cashd as required by s. 560.309.

185 (cc) Failure to submit transaction information to the
186 office as required by s. 560.311 for any payment instrument
187 cashd.

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

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

195 (b) Maintain a federally insured depository account as
196 required by s. 560.309.

197 (c) Submit transaction information to the office as
198 required by s. 560.311 for any payment instrument cashd.

199

200 For purposes of s. 120.60(6), failure to perform ~~provide~~ any of
201 the acts specified in this subsection ~~above-mentioned records~~
202 constitutes immediate and serious danger to the public health,
203 safety, and welfare.

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

206 560.126 Required notice by licensee.—

207 (4) A licensee that engages in check cashing must notify
208 the office within 5 business days after the licensee ceases to
209 maintain a federally insured depository account as required by
210 s. 560.309(3) and, before resuming check cashing, must
211 reestablish such an account and notify the office of the
212 account.

213 Section 6. Subsections (3), (4), and (8) of section
214 560.309, Florida Statutes, are amended to read:

215 560.309 Conduct of business.—

216 (3) A licensee under this part must maintain and deposit
217 payment instruments into its own a commercial account at a
218 federally insured financial institution. If a licensee ceases to
219 maintain such a depository account, the licensee must not engage
220 in check cashing until the licensee reestablishes such an
221 account and notifies the office of the account as required by s.
222 560.126(4) or sell payment instruments within 5 business days
223 after the acceptance of the payment instrument.

224 (4) A licensee may not accept or cash a a ~~multiple~~ payment
225 instrument ~~instruments~~ from a conductor ~~person~~ who is not the
226 original payee, ~~unless the person is licensed to cash payment~~
227 ~~instruments pursuant to this part and all payment instruments~~
228 ~~accepted are endorsed with the legal name of the person.~~
229 However, this subsection does not prohibit a licensee from
230 accepting or cashing a corporate payment instrument from a
231 conductor who is an authorized officer of the corporate payee
232 named on the instrument's face.

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

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

239 (b) Charge fees in excess of 3 percent of the face amount
240 of the payment instrument, or \$5, whichever is greater, if such
241 payment instrument is the payment of any kind of state public
242 assistance or federal social security benefit payable to the
243 bearer of the payment instrument; or

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

247 Section 7. Section 560.310, Florida Statutes, is amended to
248 read:

249 560.310 Records of check cashers and foreign currency
250 exchangers.—

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

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

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

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

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262 ~~1.~~ A copy of the personal identification that bears a
263 photograph of the customer used as identification and presented
264 by the customer. Acceptable personal identification is limited
265 to a valid driver ~~driver's~~ license; a state identification card
266 issued by any state of the United States or its territories or
267 the District of Columbia, and showing a photograph and
268 signature; a United States Government Resident Alien
269 Identification Card; a passport; or a United States Military
270 identification card.

271 ~~(c)2.~~ A thumbprint of the customer taken by the licensee
272 when the payment instrument is presented for negotiation or
273 payment.

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

279 ~~(3)(2)~~ A licensee under this part may engage the services
280 of a third party that is not a depository institution for the
281 maintenance and storage of records required by this section if
282 all the requirements of this section are met.

283 Section 8. Section 560.311, Florida Statutes, is created to
284 read:

285 560.311 Reporting of payment instruments cashed; database
286 of payment instrument transactions.-

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

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- 291 (a) Transaction date.
- 292 (b) Payor name.
- 293 (c) Payee name.
- 294 (d) Conductor name, if different from the payee name.
- 295 (e) Amount of the payment instrument.
- 296 (f) Amount of the currency provided.
- 297 (g) Type of payment instrument, which may include, as
298 prescribed by commission rule, but is not limited to, a personal
299 check, payroll check, government check, corporate check, or
300 third-party check.
- 301 (h) Location or branch where the payment instrument is
302 accepted.
- 303 (i) Payee's workers' compensation policy number, if the
304 payment instrument is a corporate payment instrument.
- 305 (j) Any other transaction information that may be required
306 by commission rule.
- 307
- 308 Multiple payment instruments accepted from any one conductor on
309 any given day that exceeds \$1,000 must be aggregated and
310 reported to the office through the payment instrument database.
- 311 (2) (a) The office shall establish and administer a
312 centralized database that maintains and provides real-time
313 access to the transaction information submitted to the office
314 under subsection (1). The commission may require licensees to
315 submit the transaction information through the Internet or by
316 other electronic means that provide for inclusion of the
317 submitted information in the database.
- 318 (b) The office shall design and administer the database to
319 interface with other government databases, including, but not

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320 limited to:

321 1. The department's workers' compensation proof of coverage
322 database.

323 2. The Department of State's database of corporations,
324 partnerships, limited liability companies, corporations not for
325 profit, trusts, associations, cooperatives, and other business
326 organizations registered with the Department of State.

327 (3) The commission shall adopt rules requiring a licensee
328 to remit to the office a transaction fee, as part of the direct
329 costs of verification authorized under s. 560.309(8), not to
330 exceed \$3 per transaction submitted under subsection (1) to
331 establish and administer the database required by this section.

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

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