By Senator Richter

23-00721B-14 2014590__

A bill to be entitled

An act relating to check cashing services; amending s. 560.111, F.S.; revising the elements of prohibited acts; updating cross-references; reenacting and amending s. 560.114, F.S.; updating cross-references; authorizing the Office of Financial Regulation to summarily suspend a license if criminal charges are filed against certain persons or such persons are arrested for certain offenses; amending s. 560.1235, F.S.; updating cross-references; amending s. 560.125, F.S.; providing that a deferred presentment transaction conducted by an unlicensed person is void; amending ss. 560.1401 and 560.141, F.S.; updating cross-references; amending s. 560.304, F.S.; requiring persons cashing payment instruments that have a lower aggregate face value to be licensed; amending s. 560.309, F.S.; updating a cross-reference; providing an effective date.

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

Section 1. Subsection (5) of section 560.111, Florida Statutes, is amended to read:

560.111 Prohibited acts.—

(5) <u>A</u> ~~Any~~ person who <u>knowingly and</u> willfully violates any provision of <u>s. 560.310,</u> s. 560.403, s. 560.404, or s. 560.405 commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. Paragraphs (e) and (y) of subsection (1) and subsection (2) of section 560.114, Florida Statutes, are amended, and paragraph (h) of subsection (1) of that section is reenacted, to read:

560.114 Disciplinary actions; penalties.—

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

(e) Failure to maintain, preserve, keep available for examination, and produce all books, accounts, files, or other documents required by this chapter or related rules or orders, by 31 C.F.R. ss. 1010.306, 1010.312, 1010.340, 1010.410, 1010.415, 1020.315, 1020.410, 1021.311, 1021.313, 1022.210, 1022.320, 1022.380, and 1022.410 ~~103.20, 103.22, 103.23, 103.27, 103.28, 103.29, 103.33, 103.37, 103.41, and 103.125~~, or by an ~~any~~ agreement entered into with the office.

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

(y) Violations of 31 C.F.R. ss. 1010.306, 1010.312, 1010.340, 1010.410, 1010.415, 1020.315, 1020.410, 1021.311, 1021.313, 1022.210, 1022.320, 1022.380, and 1022.410 ~~103.20, 103.22, 103.23, 103.27, 103.28, 103.29, 103.33, 103.37, 103.41, and 103.125~~, and United States Treasury Interpretive Release 2004-1.

(2) Pursuant to s. 120.60(6), the office may summarily suspend the license of a money services business if the office has reason to believe that a licensee poses an immediate, serious danger to the public health, safety, and welfare. A

proceeding for the summary suspension of a licensee must be conducted by the commissioner of the office, or his or her designee, who shall issue the final summary order. The following acts are deemed to constitute an immediate and serious danger to the public health, safety, and welfare, and the office may immediately suspend the license of a ~~any~~ money services business if ~~the money services business fails to~~:

(a) The money services business fails to provide to the office, upon written request, any of the records required by s. 560.123, s. 560.1235, s. 560.211, or s. 560.310 or any rule adopted under those sections. The suspension may be rescinded if the licensee submits the requested records to the office.

(b) The money services business fails to maintain a federally insured depository account as required by s. 560.309.

(c) Criminal charges are filed against a natural person required to be listed on the license application pursuant to s. 560.141(1)(a)3. or such person is arrested for a crime listed in paragraph (1)(o), paragraph (1)(p), or paragraph (1)(q).

~~For purposes of s. 120.60(6), failure to perform any of the acts specified in this subsection constitutes immediate and serious danger to the public health, safety, and welfare.~~

Section 3. Section 560.1235, Florida Statutes, is amended to read:

560.1235 Anti-money laundering requirements.—

(1) A licensee and authorized vendor must comply with all state and federal laws and rules relating to the detection and prevention of money laundering, including, as applicable, s. 560.123, and 31 C.F.R. ss. 1010.306, 1010.311, 1010.312,

1010.313, 1010.340, 1010.410, 1010.415, 1020.315, 1020.410, 1021.311, 1021.313, 1022.320, 1022.380, and 1022.410 ~~103.20, 103.22, 103.23, 103.27, 103.28, 103.29, 103.33, 103.37, and 103.41~~.

(2) A licensee and authorized vendor must maintain an anti-money laundering program in accordance with 31 C.F.R. s. 1022.210 ~~103.125~~. The program must be reviewed and updated as necessary to ensure that the program continues to be effective in detecting and deterring money laundering activities.

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

Section 4. Subsection (1) of section 560.125, Florida Statutes, is amended to read:

560.125 Unlicensed activity; penalties.—

(1) A person may not engage in the business of a money services business or deferred presentment provider in this state unless the person is licensed or exempted from licensure under this chapter. A deferred presentment transaction conducted by a person not licensed as a deferred presentment provider under this chapter is void, and the unlicensed person has no right to collect, receive, or retain any principal, interest, or charges relating to such transaction.

Section 5. Subsections (3) and (4) of section 560.1401, Florida Statutes, are amended to read:

560.1401 Licensing standards.—To qualify for licensure as a money services business under this chapter, an applicant must:

(3) Be registered as a money services business with the Financial Crimes Enforcement Network as required by 31 C.F.R. s. 1022.380 ~~103.41~~, if applicable.

(4) Have an anti-money laundering program in place which meets the requirements of 31 C.F.R. s. 1022.210 ~~103.125~~.

Section 6. Paragraph (d) of subsection (1) of section 560.141, Florida Statutes, is amended to read:

560.141 License application.—

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

(d) A copy of the applicant's written anti-money laundering program required under 31 C.F.R. s. 1022.210 ~~103.125~~.

Section 7. Section 560.304, Florida Statutes, is amended to read:

560.304 Exemption from licensure.—The requirement for licensure under this part does not apply to a person cashing payment instruments that have an aggregate face value of less than $1,000 ~~$2,000~~ per person per day and that are incidental to the retail sale of goods or services whose compensation for cashing payment instruments at each site does not exceed 5 percent of the total gross income from the retail sale of goods or services by such person during the last 60 days.

Section 8. Subsection (5) of section 560.309, Florida Statutes, is amended to read:

560.309 Conduct of business.—

(5) A licensee must report all suspicious activity to the office in accordance with the criteria ~~set forth~~ in 31 C.F.R. s. 1022.320 ~~103.20~~. In lieu of filing such reports, the commission may prescribe by rule that the licensee may file such reports with an appropriate regulator.

Section 9. This act shall take effect July 1, 2014.