

By the Committee on Banking and Insurance; and Senator Richter

597-01641-14

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1 A bill to be entitled  
2 An act relating to money services businesses; amending  
3 s. 560.111, F.S.; providing that failing to provide  
4 certain information relating to a check cashing  
5 transaction is a felony; reenacting and amending s.  
6 560.114, F.S.; updating cross-references; authorizing  
7 the Office of Financial Regulation to summarily  
8 suspend a license if criminal charges are filed  
9 against certain persons or such persons are arrested  
10 for certain offenses; amending s. 560.1235, F.S.;  
11 updating cross-references; amending s. 560.125, F.S.;  
12 providing that a deferred presentment transaction  
13 conducted by an unauthorized person is void; amending  
14 ss. 560.1401, 560.141, and 560.309 F.S.; updating  
15 cross-references; providing an effective date.  
16

17 Be It Enacted by the Legislature of the State of Florida:  
18

19 Section 1. Subsection (6) is added to section 560.111,  
20 Florida Statutes, to read:

21 560.111 Prohibited acts.—

22 (6) A person who knowingly and willfully violates s.  
23 560.310(2)(d) commits a felony of the third degree, punishable  
24 as provided in s. 775.082, s. 775.083, or s.775.084.

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

29 560.114 Disciplinary actions; penalties.—

597-01641-14

2014590c1

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

36 (e) Failure to maintain, preserve, keep available for  
37 examination, and produce all books, accounts, files, or other  
38 documents required by this chapter or related rules or orders,  
39 by 31 C.F.R. ss. 1010.306, 1010.312, 1010.340, 1010.410,  
40 1010.415, 1021.311, 1022.210, 1022.320, 1022.380, and 1022.410  
41 ~~103.20, 103.22, 103.23, 103.27, 103.28, 103.29, 103.33, 103.37,~~  
42 ~~103.41, and 103.125~~, or by an any agreement entered into with  
43 the office.

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

45 (y) Violations of 31 C.F.R. ss. 1010.306, 1010.312,  
46 1010.340, 1010.410, 1010.415, 1021.311, 1022.210, 1022.320,  
47 1022.380, and 1022.410 ~~103.20, 103.22, 103.23, 103.27, 103.28,~~  
48 ~~103.29, 103.33, 103.37, 103.41, and 103.125~~, and United States  
49 Treasury Interpretive Release 2004-1.

50 (2) Pursuant to s. 120.60(6), the office may summarily  
51 suspend the license of a money services business if the office  
52 finds that a licensee poses an immediate, serious danger to the  
53 public health, safety, and welfare. A proceeding in which the  
54 office seeks the issuance of a final order for the summary  
55 suspension of a licensee shall be conducted by the commissioner  
56 of the office, or his or her designee, who shall issue such  
57 order. The following acts are deemed to constitute an immediate  
58 and serious danger to the public health, safety, and welfare,

597-01641-14

2014590c1

59 and the office may immediately suspend the license of a any  
 60 money services business if ~~the money services business fails to:~~

61 (a) The money services business fails to provide to the  
 62 office, upon written request, any of the records required by s.  
 63 560.123, s. 560.1235, s. 560.211, or s. 560.310 or any rule  
 64 adopted under those sections. The suspension may be rescinded if  
 65 the licensee submits the requested records to the office.

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

68 (c) A natural person required to be listed on the license  
 69 application for a money service business pursuant to s.  
 70 560.141(1)(a)3. is criminally charged with, or arrested for, a  
 71 crime described in paragraph (1)(o), paragraph (1)(p), or  
 72 paragraph(1)(q).

73  
 74 ~~For purposes of s. 120.60(6), failure to perform any of the acts~~  
 75 ~~specified in this subsection constitutes immediate and serious~~  
 76 ~~danger to the public health, safety, and welfare.~~

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

79 560.1235 Anti-money laundering requirements.—

80 (1) A licensee and authorized vendor must comply with all  
 81 state and federal laws and rules relating to the detection and  
 82 prevention of money laundering, including, as applicable, s.  
 83 560.123, and 31 C.F.R. ss. 1010.306, 1010.311, 1010.312,  
 84 1010.313, 1010.340, 1010.410, 1010.415, 1020.315, 1020.410,  
 85 1021.311, 1021.313, 1022.320, 1022.380, and 1022.410 ~~103.20,~~  
 86 ~~103.22, 103.23, 103.27, 103.28, 103.29, 103.33, 103.37, and~~  
 87 ~~103.41.~~

597-01641-14

2014590c1

88 (2) A licensee and authorized vendor must maintain an anti-  
89 money laundering program in accordance with 31 C.F.R. s.  
90 1022.210 ~~103.125~~. The program must be reviewed and updated as  
91 necessary to ensure that the program continues to be effective  
92 in detecting and deterring money laundering activities.

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

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

97 560.125 Unlicensed activity; penalties.—

98 (1) A person may not engage in the business of a money  
99 services business or deferred presentment provider in this state  
100 unless the person is licensed or exempted from licensure under  
101 this chapter. A deferred presentment transaction conducted by a  
102 person not authorized to conduct such transaction under this  
103 chapter is void, and the unauthorized person has no right to  
104 collect, receive, or retain any principal, interest, or charges  
105 relating to such transaction.

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

108 560.1401 Licensing standards.—To qualify for licensure as a  
109 money services business under this chapter, an applicant must:

110 (3) Be registered as a money services business with the  
111 Financial Crimes Enforcement Network as required by 31 C.F.R. s.  
112 1022.380 ~~103.41~~, if applicable.

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

115 Section 6. Paragraph (d) of subsection (1) of section  
116 560.141, Florida Statutes, is amended to read:

597-01641-14

2014590c1

117 560.141 License application.—

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

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

122 Section 7. Subsection (5) of section 560.309, Florida  
123 Statutes, is amended to read:

124 560.309 Conduct of business.—

125 (5) A licensee must report all suspicious activity to the  
126 office in accordance with the criteria ~~set forth~~ in 31 C.F.R. s.  
127 1022.320 ~~103.20~~. In lieu of filing such reports, the commission  
128 may prescribe by rule that the licensee may file such reports  
129 with an appropriate regulator.

130 Section 8. This act shall take effect July 1, 2014.