

By the Committees on Criminal Justice; and Banking and Insurance; and Senator Richter

591-01840-14

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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.—

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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, 1010.311, 1010.312, 1010.340,
40 1010.410, 1010.415, 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, 1010.311,
46 1010.312, 1010.340, 1010.410, 1010.415, 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,

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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, 1022.320, 1022.380, and
 85 1022.410 ~~103.20, 103.22, 103.23, 103.27, 103.28, 103.29, 103.33,~~
 86 ~~103.37, and 103.41.~~

87 (2) A licensee and authorized vendor must maintain an anti-

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88 money laundering program in accordance with 31 C.F.R. s.
89 1022.210 ~~103.125~~. The program must be reviewed and updated as
90 necessary to ensure that the program continues to be effective
91 in detecting and deterring money laundering activities.

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

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

96 560.125 Unlicensed activity; penalties.—

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

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

107 560.1401 Licensing standards.—To qualify for licensure as a
108 money services business under this chapter, an applicant must:

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

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

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

116 560.141 License application.—

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

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

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

123 560.309 Conduct of business.—

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

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