

By the Committee on Banking and Insurance; and Senator Boyd

597-02091-22

20221536c1

1 A bill to be entitled
2 An act relating to money services businesses; amending
3 s. 560.103, F.S.; defining the terms "control person"
4 and "publicly traded"; revising and deleting
5 definitions; amending s. 560.118, F.S.; providing that
6 a rule may require reports to contain declarations by
7 control persons, rather than officers or other
8 responsible persons; amending s. 560.123, F.S.;
9 providing that control persons, rather than officers,
10 are not liable for loss or damages under certain
11 circumstances; amending s. 560.126, F.S.; requiring
12 licensees to report changes in control persons, rather
13 than certain other entities or persons; deleting a
14 requirement for certain persons to submit a licensure
15 application under certain circumstances; deleting the
16 definition of the term "controlling interest";
17 providing that the addition of a control person,
18 rather than certain other entities or persons, is
19 subject to certain requirements; deleting a
20 requirement for the commission to adopt rules;
21 repealing s. 560.127, F.S., relating to control of a
22 money services business; amending s. 560.141, F.S.;
23 revising requirements for applications for licensure
24 as a money services business; amending s. 560.143,
25 F.S.; revising a limitation for certain fees to apply
26 to a change in control, rather than in a controlling
27 interest; reenacting s. 559.952(4)(a), F.S., relating
28 to the Financial Technology Sandbox, to incorporate
29 the amendments made to ss. 560.118 and 560.141, F.S.,

597-02091-22

20221536c1

30 in references thereto; reenacting s. 560.114(2)(c),
31 F.S., relating to license applications for money
32 services businesses, to incorporate the amendments
33 made to s. 560.141, F.S., in a reference thereto;
34 providing an effective date.

35
36 Be It Enacted by the Legislature of the State of Florida:

37
38 Section 1. Section 560.103, Florida Statutes, is amended to
39 read:

40 560.103 Definitions.—As used in this chapter, the term:

41 (1) "Affiliated party" means a control ~~director, officer,~~
42 ~~responsible~~ person, employee, or foreign affiliate of a money
43 services business, ~~or a person who has a controlling interest in~~
44 ~~a money services business as provided in s. 560.127.~~

45 (2) "Appropriate regulator" means a state, federal, or
46 foreign agency that has been granted authority to enforce state,
47 federal, or foreign laws related to a money services business or
48 deferred presentment provider.

49 (3) "Authorized vendor" means a person designated by a
50 money services business licensed under part II of this chapter
51 to act on behalf of the licensee at locations in this state
52 pursuant to a written contract with the licensee.

53 (4) "Branch office" means the physical location, other than
54 the principal place of business, of a money services business
55 operated by a licensee under this chapter.

56 (5) "Cashing" means providing currency for payment
57 instruments except for travelers checks.

58 (6) "Check casher" means a person who sells currency in

597-02091-22

20221536c1

59 exchange for payment instruments received, except travelers
60 checks.

61 (7) "Commission" means the Financial Services Commission.

62 (8) "Compliance officer" means the individual in charge of
63 overseeing, managing, and ensuring that a money services
64 business is in compliance with all state and federal laws and
65 rules relating to money services businesses, as applicable,
66 including all money laundering laws and rules.

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

70 (10) "Control person" means:

71 (a) A person who possesses the power, directly or
72 indirectly, to direct the management or policies of a money
73 services business, whether through ownership of securities, by
74 contract, or through other means, and regardless of whether such
75 person has an official title or receives a salary or other
76 compensation. The following persons are each presumed to be a
77 control person:

78 1. The president, chief executive officer, chief financial
79 officer, chief operations officer, chief legal officer, and
80 chief compliance officer.

81 2. A person holding any of the officer positions named by
82 the money services business's governing documents.

83 3. A person holding any position named by the money
84 services business's directors and officers liability insurance
85 coverage, if the business has such coverage; and

86 4. A director of the money services business's board of
87 directors.

597-02091-22

20221536c1

88 (b) For a corporation not publicly traded, each shareholder
89 that, directly or indirectly, owns 25 percent or more or that
90 has the power to vote 25 percent or more of a class of voting
91 securities. For purposes of this paragraph, the term "publicly
92 traded" means a stock currently traded on a national securities
93 exchange registered with the Securities and Exchange Commission
94 or traded on an exchange in a country other than the United
95 States regulated by a regulator equivalent to the Securities and
96 Exchange Commission and the disclosure and reporting
97 requirements of such regulator are substantially similar to
98 those of the commission.

99 (c) For a partnership, all general partners and limited or
100 special partners that have contributed 25 percent or more or
101 that have the right to receive, upon dissolution, 25 percent or
102 more of the partnership's capital.

103 (d) For a trust, each trustee.

104 (e) For a limited liability company, all managers and those
105 members that have contributed 25 percent or more or that have
106 the right to receive, upon dissolution, 25 percent or more of
107 the limited liability company's capital account.

108 ~~(11)~~~~(10)~~ "Corporate payment instrument" means a payment
109 instrument on which the payee named on the instrument's face is
110 other than a natural person.

111 ~~(12)~~~~(11)~~ "Currency" means the coin and paper money of the
112 United States or of any other country which is designated as
113 legal tender and which circulates and is customarily used and
114 accepted as a medium of exchange in the country of issuance.
115 Currency includes United States silver certificates, United
116 States notes, and Federal Reserve notes. Currency also includes

597-02091-22

20221536c1

117 official foreign bank notes that are customarily used and
118 accepted as a medium of exchange in a foreign country.

119 (13)~~(12)~~ "Deferred presentment provider" means a person who
120 is licensed under part II or part III of this chapter and has
121 filed a declaration of intent with the office to engage in
122 deferred presentment transactions as provided under part IV of
123 this chapter.

124 (14)~~(13)~~ "Department" means the Department of Financial
125 Services.

126 (15)~~(14)~~ "Electronic instrument" means a card, tangible
127 object, or other form of electronic payment for the transmission
128 or payment of money or the exchange of monetary value, including
129 a stored value card or device that contains a microprocessor
130 chip, magnetic stripe, or other means for storing information;
131 that is prefunded; and for which the value is decremented upon
132 each use.

133 (16)~~(15)~~ "Financial audit report" means a report prepared
134 in connection with a financial audit that is conducted in
135 accordance with generally accepted auditing standards prescribed
136 by the American Institute of Certified Public Accountants by a
137 certified public accountant licensed to do business in the
138 United States, and which must include:

139 (a) Financial statements, including notes related to the
140 financial statements and required supplementary information,
141 prepared in conformity with accounting principles generally
142 accepted in the United States. The notes must, at a minimum,
143 include detailed disclosures regarding receivables that are
144 greater than 90 days, if the total amount of such receivables
145 represents more than 2 percent of the licensee's total assets.

597-02091-22

20221536c1

146 (b) An expression of opinion regarding whether the
147 financial statements are presented in conformity with accounting
148 principles generally accepted in the United States, or an
149 assertion to the effect that such an opinion cannot be expressed
150 and the reasons.

151 (17)~~(16)~~ "Foreign affiliate" means a person located outside
152 this state who has been designated by a licensee to make
153 payments on behalf of the licensee to persons who reside outside
154 this state. The term also includes a person located outside of
155 this state for whom the licensee has been designated to make
156 payments in this state.

157 (18)~~(17)~~ "Foreign currency exchanger" means a person who
158 exchanges, for compensation, currency of the United States or a
159 foreign government to currency of another government.

160 (19)~~(18)~~ "Fraudulent identification paraphernalia" means
161 all equipment, products, or materials of any kind that are used,
162 intended for use, or designed for use in the misrepresentation
163 of a customer's identity. The term includes, but is not limited
164 to:

165 (a) A signature stamp, thumbprint stamp, or other tool or
166 device used to forge a customer's personal identification
167 information.

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

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

597-02091-22

20221536c1

175 original of such personal identification.

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

180 (20)~~(19)~~ "Licensee" means a person licensed under this
181 chapter.

182 (21)~~(20)~~ "Location" means a branch office, mobile location,
183 or location of an authorized vendor whose business activity is
184 regulated under this chapter.

185 (22)~~(21)~~ "Monetary value" means a medium of exchange,
186 whether or not redeemable in currency.

187 (23)~~(22)~~ "Money services business" means any person located
188 in or doing business in this state, from this state, or into
189 this state from locations outside this state or country who acts
190 as a payment instrument seller, foreign currency exchanger,
191 check casher, or money transmitter.

192 (24)~~(23)~~ "Money transmitter" means a corporation, limited
193 liability company, limited liability partnership, or foreign
194 entity qualified to do business in this state which receives
195 currency, monetary value, or payment instruments for the purpose
196 of transmitting the same by any means, including transmission by
197 wire, facsimile, electronic transfer, courier, the Internet, or
198 through bill payment services or other businesses that
199 facilitate such transfer within this country, or to or from this
200 country.

201 (25)~~(24)~~ "Net worth" means assets minus liabilities,
202 determined in accordance with United States generally accepted
203 accounting principles.

597-02091-22

20221536c1

204 (26)~~(25)~~ "Office" means the Office of Financial Regulation
205 of the commission.

206 ~~(26) "Officer" means an individual, other than a director,~~
207 ~~who participates in, or has authority to participate in, the~~
208 ~~major policymaking functions of a money services business,~~
209 ~~regardless of whether the individual has an official title or~~
210 ~~receives a salary or other compensation.~~

211 (27) "Outstanding money transmission" means a money
212 transmission to a designated recipient or a refund to a sender
213 that has not been completed.

214 (28) "Outstanding payment instrument" means an unpaid
215 payment instrument whose sale has been reported to a licensee.

216 (29) "Payment instrument" means a check, draft, warrant,
217 money order, travelers check, electronic instrument, or other
218 instrument, payment of money, or monetary value whether or not
219 negotiable. The term does not include an instrument that is
220 redeemable by the issuer in merchandise or service, a credit
221 card voucher, or a letter of credit.

222 (30) "Payment instrument seller" means a corporation,
223 limited liability company, limited liability partnership, or
224 foreign entity qualified to do business in this state which
225 sells a payment instrument.

226 (31) "Person" means an individual, partnership,
227 association, trust, corporation, limited liability company, or
228 other group, however organized, but does not include a public
229 agency or instrumentality thereof.

230 (32) "Personal identification information" means a
231 customer's name that, alone or together with any of the
232 following information, may be used to identify that specific

597-02091-22

20221536c1

233 customer:

234 (a) Customer's signature.

235 (b) Photograph, digital image, or other likeness of the
236 customer.

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

240 ~~(33) "Responsible person" means an individual who is~~
241 ~~employed by or affiliated with a money services business and who~~
242 ~~has principal active management authority over the business~~
243 ~~decisions, actions, and activities of the money services~~
244 ~~business in this state.~~

245 (33)~~(34)~~ "Sells" means to sell, issue, provide, or deliver.

246 (34)~~(35)~~ "Stored value" means funds or monetary value
247 represented in digital electronic format, whether or not
248 specially encrypted, and stored or capable of storage on
249 electronic media in such a way as to be retrievable and
250 transferred electronically.

251 Section 2. Subsection (2) of section 560.118, Florida
252 Statutes, is amended to read:

253 560.118 Reports.—

254 (2) Each licensee must submit quarterly reports to the
255 office in a format and include information as specified by rule.
256 The rule may require the report to contain a declaration by a
257 control ~~an officer, or any other responsible person~~ authorized
258 to make such declaration, that the report is true and correct to
259 the best of her or his knowledge and belief.

260 Section 3. Paragraph (d) of subsection (3) of section
261 560.123, Florida Statutes, is amended to read:

597-02091-22

20221536c1

262 560.123 Florida Control of Money Laundering in Money
263 Services Business Act.—

264 (3) A money services business shall keep a record of each
265 financial transaction occurring in this state which it knows to
266 involve currency or other payment instrument, as prescribed by
267 the commission, having a value greater than \$10,000; to involve
268 the proceeds of specified unlawful activity; or to be designed
269 to evade the reporting requirements of this section or chapter
270 896. The money services business must maintain appropriate
271 procedures to ensure compliance with this section and chapter
272 896.

273 (d) A money services business, or control person ~~officer~~,
274 employee, or agent thereof, that files a report in good faith
275 pursuant to this section is not liable to any person for loss or
276 damage caused in whole or in part by the making, filing, or
277 governmental use of the report, or any information contained
278 therein.

279 Section 4. Subsection (3) of section 560.126, Florida
280 Statutes, is amended to read:

281 560.126 Required notice by licensee.—

282 (3) Each licensee must report any change in the control
283 ~~partners, officers, members, joint venturers, directors,~~
284 ~~controlling shareholders, or responsible~~ persons of the licensee
285 or changes in the form of business organization by written
286 amendment in such form and at such time as specified by rule.

287 ~~(a) If any person, directly or indirectly or acting by or~~
288 ~~through one or more persons, proposes to purchase or acquire a~~
289 ~~controlling interest in a licensee, such person or group must~~
290 ~~submit an application for licensure as a money services business~~

597-02091-22

20221536c1

291 ~~or deferred presentment provider before such purchase or~~
292 ~~acquisition at such time and in such form as prescribed by rule.~~
293 ~~As used in this subsection, the term "controlling interest"~~
294 ~~means the same as described in s. 560.127.~~

295 ~~(b) The addition of a control person partner, officer,~~
296 ~~member, joint venturer, director, controlling shareholder, or~~
297 ~~responsible person of the applicant who does not have a~~
298 ~~controlling interest and who has not previously complied with~~
299 ~~the applicable provisions of ss. 560.1401 and 560.141 is subject~~
300 ~~to such provisions. If the office determines that the licensee~~
301 ~~does not continue to meet the licensure requirements, the office~~
302 ~~may bring an administrative action in accordance with s. 560.114~~
303 ~~to enforce the provisions of this chapter.~~

304 ~~(c) The commission shall adopt rules providing for the~~
305 ~~waiver of the license application required by this subsection if~~
306 ~~the person or group of persons proposing to purchase or acquire~~
307 ~~a controlling interest in a licensee has previously complied~~
308 ~~with the applicable provisions of ss. 560.1401 and 560.141 under~~
309 ~~the same legal entity or is currently licensed under this~~
310 ~~chapter.~~

311 Section 5. Section 560.127, Florida Statutes, is repealed.

312 Section 6. Paragraph (a) of subsection (1) of section
313 560.141, Florida Statutes, is amended to read:

314 560.141 License application.—

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

317 (a) An application to the office on forms prescribed by
318 rule which includes the following information:

319 1. The legal name and address of the applicant, including

597-02091-22

20221536c1

320 any fictitious or trade names used by the applicant in the
321 conduct of its business.

322 2. The date of the applicant's formation and the state in
323 which the applicant was formed, if applicable.

324 3. The name, social security number, alien identification
325 or taxpayer identification number, business and residence
326 addresses, and employment history for the past 5 years for each
327 control person ~~officer, director, responsible person, the~~
328 ~~compliance officer, each controlling shareholder, and any other~~
329 ~~person who has a controlling interest in the money services~~
330 ~~business as provided in s. 560.127.~~

331 4. A description of the organizational structure of the
332 applicant, including the identity of any parent or subsidiary of
333 the applicant, and the disclosure of whether any parent or
334 subsidiary is publicly traded.

335 5. The applicant's history of operations in other states if
336 applicable and a description of the money services business or
337 deferred presentment provider activities proposed to be
338 conducted by the applicant in this state.

339 6. If the applicant or its parent is a publicly traded
340 company, copies of all filings made by the applicant with the
341 United States Securities and Exchange Commission, or with a
342 similar regulator in a country other than the United States,
343 within the preceding year.

344 7. The location at which the applicant proposes to
345 establish its principal place of business and any other
346 location, including branch offices and authorized vendors
347 operating in this state. For each branch office and each
348 location of an authorized vendor, the applicant shall include

597-02091-22

20221536c1

349 the nonrefundable fee required by s. 560.143.

350 8. The name and address of the clearing financial
351 institution or financial institutions through which the
352 applicant's payment instruments are drawn or through which the
353 payment instruments are payable.

354 9. The history of the applicant's material litigation,
355 criminal convictions, pleas of nolo contendere, and cases of
356 adjudication withheld.

357 10. The history of material litigation, arrests, criminal
358 convictions, pleas of nolo contendere, and cases of adjudication
359 withheld for each control ~~executive officer, director,~~
360 ~~controlling shareholder, and responsible~~ person.

361 11. The name of the registered agent in this state for
362 service of process unless the applicant is a sole proprietor.

363 12. Any other information specified in this chapter or by
364 rule.

365 Section 7. Subsection (1) of section 560.143, Florida
366 Statutes, is amended to read:

367 560.143 Fees.—

368 (1) LICENSE APPLICATION FEES.—The applicable non-refundable
369 fees must accompany an application for licensure:

370 (a) Part II.....\$375.

371 (b) Part III.....\$188.

372 (c) Per branch office.....\$38.

373 (d) For each location of an authorized
374 vendor.....\$38.

375 (e) Declaration as a deferred presentment
376 provider.....\$1,000.

377 (f) Fingerprint retention fees as prescribed by rule.

597-02091-22

20221536c1

378 (g) License application fees for branch offices and
379 authorized vendors are limited to \$20,000 when such fees are
380 assessed as a result of a change in control ~~controlling interest~~
381 ~~as defined in s. 560.127.~~

382 Section 8. For the purpose of incorporating the amendment
383 made by this act to sections 560.118 and 560.141, Florida
384 Statutes, in references thereto, paragraph (a) of subsection (4)
385 of section 559.952, Florida Statutes, is reenacted to read:

386 559.952 Financial Technology Sandbox.—

387 (4) EXCEPTIONS TO GENERAL LAW AND WAIVERS OF RULE
388 REQUIREMENTS.—

389 (a) Notwithstanding any other law, upon approval of a
390 Financial Technology Sandbox application, the following
391 provisions and corresponding rule requirements are not
392 applicable to the licensee during the sandbox period:

393 1. Section 516.03(1), except for the application fee, the
394 investigation fee, the requirement to provide the social
395 security numbers of control persons, evidence of liquid assets
396 of at least \$25,000, and the office's authority to investigate
397 the applicant's background. The office may prorate the license
398 renewal fee for an extension granted under subsection (7).

399 2. Section 516.05(1) and (2), except that the office shall
400 investigate the applicant's background.

401 3. Section 560.109, only to the extent that the section
402 requires the office to examine a licensee at least once every 5
403 years.

404 4. Section 560.118(2).

405 5. Section 560.125(1), only to the extent that the
406 subsection would prohibit a licensee from engaging in the

597-02091-22

20221536c1

407 business of a money transmitter or payment instrument seller
408 during the sandbox period.

409 6. Section 560.125(2), only to the extent that the
410 subsection would prohibit a licensee from appointing an
411 authorized vendor during the sandbox period. Any authorized
412 vendor of such a licensee during the sandbox period remains
413 liable to the holder or remitter.

414 7. Section 560.128.

415 8. Section 560.141, except for s. 560.141(1)(a)1., 3., 7.-
416 10. and (b), (c), and (d).

417 9. Section 560.142(1) and (2), except that the office may
418 prorate, but may not entirely eliminate, the license renewal
419 fees in s. 560.143 for an extension granted under subsection
420 (7).

421 10. Section 560.143(2), only to the extent necessary for
422 proration of the renewal fee under subparagraph 9.

423 11. Section 560.204(1), only to the extent that the
424 subsection would prohibit a licensee from engaging in, or
425 advertising that it engages in, the selling or issuing of
426 payment instruments or in the activity of a money transmitter
427 during the sandbox period.

428 12. Section 560.205(2).

429 13. Section 560.208(2).

430 14. Section 560.209, only to the extent that the office may
431 modify, but may not entirely eliminate, the net worth, corporate
432 surety bond, and collateral deposit amounts required under that
433 section. The modified amounts must be in such lower amounts that
434 the office determines to be commensurate with the factors under
435 paragraph (5)(c) and the maximum number of consumers authorized

597-02091-22

20221536c1

436 to receive the financial product or service under this section.

437 Section 9. For the purpose of incorporating the amendment
438 made by this act to section 560.141, Florida Statutes, in a
439 reference thereto, paragraph (c) of subsection (2) of section
440 560.114, Florida Statutes, is reenacted, to read:

441 560.114 Disciplinary actions; penalties.—

442 (2) Pursuant to s. 120.60(6), the office may summarily
443 suspend the license of a money services business if the office
444 finds that a licensee poses an immediate, serious danger to the
445 public health, safety, and welfare. A proceeding in which the
446 office seeks the issuance of a final order for the summary
447 suspension of a licensee shall be conducted by the commissioner
448 of the office, or his or her designee, who shall issue such
449 order. The following acts are deemed to constitute an immediate
450 and serious danger to the public health, safety, and welfare,
451 and the office may immediately suspend the license of a money
452 services business if:

453 (c) A natural person required to be listed on the license
454 application for a money services business pursuant to s.
455 560.141(1)(a)3. is criminally charged with, or arrested for, a
456 crime described in paragraph (1)(o), paragraph (1)(p), or
457 paragraph(1)(q).

458 Section 10. This act shall take effect October 1, 2022.