

**By** the Committees on Commerce and Tourism; and Banking and Insurance; and Senator Boyd

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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 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 certain reports to the Office of  
7       Financial Regulation to contain declarations by  
8       control persons, rather than officers or other  
9       responsible persons; amending s. 560.123, F.S.;  
10      providing that control persons, rather than officers,  
11      are not liable for loss or damages under certain  
12      circumstances; amending s. 560.126, F.S.; requiring  
13      licensees to report changes in control persons, rather  
14      than certain other entities or persons; deleting a  
15      requirement for certain persons to submit a licensure  
16      application under certain circumstances; deleting the  
17      definition of the term "controlling interest";  
18      providing that the addition of a control person,  
19      rather than certain other entities or persons, is  
20      subject to certain requirements; deleting a  
21      requirement for the Financial Services Commission to  
22      adopt rules; repealing s. 560.127, F.S., relating to  
23      control of a money services business; amending s.  
24      560.141, F.S.; revising requirements for applications  
25      for licensure as a money services business; deleting  
26      the definition of the term "publicly traded"; deleting  
27      obsolete language; amending s. 560.143, F.S.; removing  
28      a limitation on specified license application fees  
29      under certain circumstances; reenacting s.

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30 559.952(4)(a), F.S., relating to the Financial  
31 Technology Sandbox, to incorporate the amendments made  
32 to ss. 560.118 and 560.141, F.S., in references  
33 thereto; reenacting s. 560.114(2)(c), F.S., relating  
34 to disciplinary actions and penalties, to incorporate  
35 the amendment made to s. 560.141, F.S., in a reference  
36 thereto; providing an effective date.  
37

38 Be It Enacted by the Legislature of the State of Florida:  
39

40 Section 1. Section 560.103, Florida Statutes, is amended to  
41 read:

42 560.103 Definitions.—As used in this chapter, the term:

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

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

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

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

58 (5) "Cashing" means providing currency for payment

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59 instruments except for travelers checks.

60 (6) "Check casher" means a person who sells currency in  
61 exchange for payment instruments received, except travelers  
62 checks.

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

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

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) "Control person" means:

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

80 1. The president, chief executive officer, chief financial  
81 officer, chief operations officer, chief legal officer, and  
82 compliance officer.

83 2. A person holding any of the officer positions named in  
84 the money services business's governing documents.

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

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88 4. A director of the money services business's board of  
89 directors.

90 (b) For a corporation that is not publicly traded, all  
91 shareholders that, directly or indirectly, own 25 percent or  
92 more or that have the power to vote 25 percent or more of a  
93 class of voting securities.

94 (c) For a partnership, all general partners and those  
95 limited or special partners that have contributed 25 percent or  
96 more or that have the right to receive upon dissolution 25  
97 percent or more of the partnership's capital.

98 (d) For a trust, all trustees.

99 (e) For a limited liability company, all managers and those  
100 members that have contributed 25 percent or more or that have  
101 the right to receive upon dissolution 25 percent or more of the  
102 limited liability company's capital.

103 (11)-(10) "Corporate payment instrument" means a payment  
104 instrument on which the payee named on the instrument's face is  
105 other than a natural person.

106 (12)-(11) "Currency" means the coin and paper money of the  
107 United States or of any other country which is designated as  
108 legal tender and which circulates and is customarily used and  
109 accepted as a medium of exchange in the country of issuance.  
110 Currency includes United States silver certificates, United  
111 States notes, and Federal Reserve notes. Currency also includes  
112 official foreign bank notes that are customarily used and  
113 accepted as a medium of exchange in a foreign country.

114 (13)-(12) "Deferred presentment provider" means a person who  
115 is licensed under part II or part III of this chapter and has  
116 filed a declaration of intent with the office to engage in

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117 deferred presentment transactions as provided under part IV of  
118 this chapter.

119 (14)~~(13)~~ "Department" means the Department of Financial  
120 Services.

121 (15)~~(14)~~ "Electronic instrument" means a card, tangible  
122 object, or other form of electronic payment for the transmission  
123 or payment of money or the exchange of monetary value, including  
124 a stored value card or device that contains a microprocessor  
125 chip, magnetic stripe, or other means for storing information;  
126 that is prefunded; and for which the value is decremented upon  
127 each use.

128 (16)~~(15)~~ "Financial audit report" means a report prepared  
129 in connection with a financial audit that is conducted in  
130 accordance with generally accepted auditing standards prescribed  
131 by the American Institute of Certified Public Accountants by a  
132 certified public accountant licensed to do business in the  
133 United States, and which must include:

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

141 (b) An expression of opinion regarding whether the  
142 financial statements are presented in conformity with accounting  
143 principles generally accepted in the United States, or an  
144 assertion to the effect that such an opinion cannot be expressed  
145 and the reasons.

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146        (17)~~(16)~~ "Foreign affiliate" means a person located outside  
147 this state who has been designated by a licensee to make  
148 payments on behalf of the licensee to persons who reside outside  
149 this state. The term also includes a person located outside of  
150 this state for whom the licensee has been designated to make  
151 payments in this state.

152        (18)~~(17)~~ "Foreign currency exchanger" means a person who  
153 exchanges, for compensation, currency of the United States or a  
154 foreign government to currency of another government.

155        (19)~~(18)~~ "Fraudulent identification paraphernalia" means  
156 all equipment, products, or materials of any kind that are used,  
157 intended for use, or designed for use in the misrepresentation  
158 of a customer's identity. The term includes, but is not limited  
159 to:

160            (a) A signature stamp, thumbprint stamp, or other tool or  
161 device used to forge a customer's personal identification  
162 information.

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

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

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

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175        (20)~~(19)~~ "Licensee" means a person licensed under this  
176 chapter.

177        (21)~~(20)~~ "Location" means a branch office, mobile location,  
178 or location of an authorized vendor whose business activity is  
179 regulated under this chapter.

180        (22)~~(21)~~ "Monetary value" means a medium of exchange,  
181 whether or not redeemable in currency.

182        (23)~~(22)~~ "Money services business" means any person located  
183 in or doing business in this state, from this state, or into  
184 this state from locations outside this state or country who acts  
185 as a payment instrument seller, foreign currency exchanger,  
186 check casher, or money transmitter.

187        (24)~~(23)~~ "Money transmitter" means a corporation, limited  
188 liability company, limited liability partnership, or foreign  
189 entity qualified to do business in this state which receives  
190 currency, monetary value, or payment instruments for the purpose  
191 of transmitting the same by any means, including transmission by  
192 wire, facsimile, electronic transfer, courier, the Internet, or  
193 through bill payment services or other businesses that  
194 facilitate such transfer within this country, or to or from this  
195 country.

196        (25)~~(24)~~ "Net worth" means assets minus liabilities,  
197 determined in accordance with United States generally accepted  
198 accounting principles.

199        (26)~~(25)~~ "Office" means the Office of Financial Regulation  
200 of the commission.

201        ~~(26) "Officer" means an individual, other than a director,~~  
202 ~~who participates in, or has authority to participate in, the~~  
203 ~~major policymaking functions of a money services business,~~

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204 ~~regardless of whether the individual has an official title or~~  
205 ~~receives a salary or other compensation.~~

206 (27) "Outstanding money transmission" means a money  
207 transmission to a designated recipient or a refund to a sender  
208 that has not been completed.

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

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

217 (30) "Payment instrument seller" means a corporation,  
218 limited liability company, limited liability partnership, or  
219 foreign entity qualified to do business in this state which  
220 sells a payment instrument.

221 (31) "Person" means an individual, partnership,  
222 association, trust, corporation, limited liability company, or  
223 other group, however organized, but does not include a public  
224 agency or instrumentality thereof.

225 (32) "Personal identification information" means a  
226 customer's name that, alone or together with any of the  
227 following information, may be used to identify that specific  
228 customer:

229 (a) Customer's signature.

230 (b) Photograph, digital image, or other likeness of the  
231 customer.

232 (c) Unique biometric data, such as the customer's



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233 thumbprint or fingerprint, voice print, retina or iris image, or  
234 other unique physical representation of the customer.

235 (33) "Publicly traded" means a stock is currently traded on  
236 a national securities exchange registered with the Securities  
237 and Exchange Commission, or traded on an exchange in a country  
238 other than the United States regulated by a regulator equivalent  
239 to the Securities and Exchange Commission and the disclosure and  
240 reporting requirements of such regulator are substantially  
241 similar to those of the Securities and Exchange Commission

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

247 (34) "Sells" means to sell, issue, provide, or deliver.

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

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

255 560.118 Reports.—

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

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262 Section 3. Paragraph (d) of subsection (3) of section  
263 560.123, Florida Statutes, is amended to read:

264 560.123 Florida Control of Money Laundering in Money  
265 Services Business Act.—

266 (3) A money services business shall keep a record of each  
267 financial transaction occurring in this state which it knows to  
268 involve currency or other payment instrument, as prescribed by  
269 the commission, having a value greater than \$10,000; to involve  
270 the proceeds of specified unlawful activity; or to be designed  
271 to evade the reporting requirements of this section or chapter  
272 896. The money services business must maintain appropriate  
273 procedures to ensure compliance with this section and chapter  
274 896.

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

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

283 560.126 Required notice by licensee.—

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

289 ~~(a) If any person, directly or indirectly or acting by or~~  
290 ~~through one or more persons, proposes to purchase or acquire a~~

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291 ~~controlling interest in a licensee, such person or group must~~  
292 ~~submit an application for licensure as a money services business~~  
293 ~~or deferred presentment provider before such purchase or~~  
294 ~~acquisition at such time and in such form as prescribed by rule.~~  
295 ~~As used in this subsection, the term "controlling interest"~~  
296 ~~means the same as described in s. 560.127.~~

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

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

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

314 Section 6. Paragraphs (a) and (c) of subsection (1) of  
315 section 560.141, Florida Statutes, are amended to read:

316 560.141 License application.—

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

319 (a) An application to the office on forms prescribed by

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320 rule which includes the following information:

321 1. The legal name and address of the applicant, including  
322 any fictitious or trade names used by the applicant in the  
323 conduct of its business.

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

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

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

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

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

346 7. The location at which the applicant proposes to  
347 establish its principal place of business and any other  
348 location, including branch offices and authorized vendors

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349 operating in this state. For each branch office and each  
350 location of an authorized vendor, the applicant shall include  
351 the nonrefundable fee required by s. 560.143.

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

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

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

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

365 12. Any other information specified in this chapter or by  
366 rule.

367 (c) Fingerprints for each person listed in subparagraph  
368 (a)3. for live-scan processing in accordance with rules adopted  
369 by the commission.

370 1. The fingerprints may be submitted through a third-party  
371 vendor authorized by the Department of Law Enforcement to  
372 provide live-scan fingerprinting.

373 2. The Department of Law Enforcement must conduct the state  
374 criminal history background check, and a federal criminal  
375 history background check must be conducted through the Federal  
376 Bureau of Investigation.

377 3. All fingerprints submitted to the Department of Law

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378 Enforcement must be submitted electronically and entered into  
379 the statewide automated fingerprint identification system  
380 established in s. 943.05(2)(b) and available for use in  
381 accordance with s. 943.05(2)(g) and (h). The office shall pay an  
382 annual fee to the Department of Law Enforcement to participate  
383 in the system and shall inform the Department of Law Enforcement  
384 of any person whose fingerprints no longer must be retained.

385 4. The costs of fingerprint processing, including the cost  
386 of retaining the fingerprints, shall be borne by the person  
387 subject to the background check.

388 5. The office shall review the results of the state and  
389 federal criminal history background checks and determine whether  
390 the applicant meets licensure requirements.

391 6. For purposes of this paragraph, fingerprints are not  
392 required to be submitted if the applicant is a publicly traded  
393 corporation or is exempted from this chapter under s.  
394 560.104(1). ~~The term "publicly traded" means a stock is~~  
395 ~~currently traded on a national securities exchange registered~~  
396 ~~with the federal Securities and Exchange Commission or traded on~~  
397 ~~an exchange in a country other than the United States regulated~~  
398 ~~by a regulator equivalent to the Securities and Exchange~~  
399 ~~Commission and the disclosure and reporting requirements of such~~  
400 ~~regulator are substantially similar to those of the commission.~~

401 ~~7. Licensees initially approved before October 1, 2013, who~~  
402 ~~are seeking renewal must submit fingerprints for each person~~  
403 ~~listed in subparagraph (a)3. for live-scan processing pursuant~~  
404 ~~to this paragraph. Such fingerprints must be submitted before~~  
405 ~~renewing a license that is scheduled to expire between April 30,~~  
406 ~~2014, and December 31, 2015.~~

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

409 560.143 Fees.—

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

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

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

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

415 (d) For each location of an authorized  
416 vendor.....\$38.

417 (e) Declaration as a deferred presentment  
418 provider.....\$1,000.

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

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

424 Section 8. For the purpose of incorporating the amendments  
425 made by this act to sections 560.118 and 560.141, Florida  
426 Statutes, in references thereto, paragraph (a) of subsection (4)  
427 of section 559.952, Florida Statutes, is reenacted to read:

428 559.952 Financial Technology Sandbox.—

429 (4) EXCEPTIONS TO GENERAL LAW AND WAIVERS OF RULE  
430 REQUIREMENTS.—

431 (a) Notwithstanding any other law, upon approval of a  
432 Financial Technology Sandbox application, the following  
433 provisions and corresponding rule requirements are not  
434 applicable to the licensee during the sandbox period:

435 1. Section 516.03(1), except for the application fee, the

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436 investigation fee, the requirement to provide the social  
437 security numbers of control persons, evidence of liquid assets  
438 of at least \$25,000, and the office's authority to investigate  
439 the applicant's background. The office may prorate the license  
440 renewal fee for an extension granted under subsection (7).

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

443 3. Section 560.109, only to the extent that the section  
444 requires the office to examine a licensee at least once every 5  
445 years.

446 4. Section 560.118(2).

447 5. Section 560.125(1), only to the extent that the  
448 subsection would prohibit a licensee from engaging in the  
449 business of a money transmitter or payment instrument seller  
450 during the sandbox period.

451 6. Section 560.125(2), only to the extent that the  
452 subsection would prohibit a licensee from appointing an  
453 authorized vendor during the sandbox period. Any authorized  
454 vendor of such a licensee during the sandbox period remains  
455 liable to the holder or remitter.

456 7. Section 560.128.

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

459 9. Section 560.142(1) and (2), except that the office may  
460 prorate, but may not entirely eliminate, the license renewal  
461 fees in s. 560.143 for an extension granted under subsection  
462 (7).

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



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465           11. Section 560.204(1), only to the extent that the  
466 subsection would prohibit a licensee from engaging in, or  
467 advertising that it engages in, the selling or issuing of  
468 payment instruments or in the activity of a money transmitter  
469 during the sandbox period.

470           12. Section 560.205(2).

471           13. Section 560.208(2).

472           14. Section 560.209, only to the extent that the office may  
473 modify, but may not entirely eliminate, the net worth, corporate  
474 surety bond, and collateral deposit amounts required under that  
475 section. The modified amounts must be in such lower amounts that  
476 the office determines to be commensurate with the factors under  
477 paragraph (5)(c) and the maximum number of consumers authorized  
478 to receive the financial product or service under this section.

479           Section 9. For the purpose of incorporating the amendment  
480 made by this act to section 560.141, Florida Statutes, in a  
481 reference thereto, paragraph (c) of subsection (2) of section  
482 560.114, Florida Statutes, is reenacted to read:

483           560.114 Disciplinary actions; penalties.—

484           (2) Pursuant to s. 120.60(6), the office may summarily  
485 suspend the license of a money services business if the office  
486 finds that a licensee poses an immediate, serious danger to the  
487 public health, safety, and welfare. A proceeding in which the  
488 office seeks the issuance of a final order for the summary  
489 suspension of a licensee shall be conducted by the commissioner  
490 of the office, or his or her designee, who shall issue such  
491 order. The following acts are deemed to constitute an immediate  
492 and serious danger to the public health, safety, and welfare,  
493 and the office may immediately suspend the license of a money

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494 services business if:

495 (c) A natural person required to be listed on the license  
496 application for a money services business pursuant to s.  
497 560.141(1)(a)3. is criminally charged with, or arrested for, a  
498 crime described in paragraph (1)(o), paragraph (1)(p), or  
499 paragraph(1)(q).

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