

26 | investments under certain circumstances; amending s.
 27 | 560.211, F.S.; revising recordkeeping requirements for
 28 | a money transmitter or payment instrument seller;
 29 | amending s. 560.212, F.S.; revising financial
 30 | liability requirements for a money transmitter or
 31 | payment instrument seller; providing an effective
 32 | date.
 33 |

34 | Be It Enacted by the Legislature of the State of Florida:
 35 |

36 | Section 1. Paragraph (a) of subsection (4) of section
 37 | 559.952, Florida Statutes, is amended to read:

38 | 559.952 Financial Technology Sandbox.—

39 | (4) EXCEPTIONS TO GENERAL LAW AND WAIVERS OF RULE
 40 | REQUIREMENTS.—

41 | (a) Notwithstanding any other law, upon approval of a
 42 | Financial Technology Sandbox application, the following
 43 | provisions and corresponding rule requirements are not
 44 | applicable to the licensee during the sandbox period:

45 | 1. Section 516.03(1), except for the application fee, the
 46 | investigation fee, the requirement to provide the social
 47 | security numbers of control persons, evidence of liquid assets
 48 | of at least \$25,000, and the office's authority to investigate
 49 | the applicant's background. The office may prorate the license
 50 | renewal fee for an extension granted under subsection (7).

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

53 3. Section 560.109, only to the extent that the section
54 requires the office to examine a licensee at least once every 5
55 years.

56 4. Section 560.118(2).

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

61 6. Section 560.125(2), only to the extent that the
62 subsection would prohibit a licensee from appointing an
63 authorized vendor during the sandbox period. Any authorized
64 vendor of such a licensee during the sandbox period remains
65 liable to the holder or remitter.

66 7. Section 560.128.

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

69 9. Section 560.142(1) and (2), except that the office may
70 prorate, but may not entirely eliminate, the license renewal
71 fees in s. 560.143 for an extension granted under subsection
72 (7).

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

75 11. Section 560.204(1), only to the extent that the

76 subsection would prohibit a licensee from engaging in, or
 77 advertising that it engages in, ~~the selling or issuing of~~
 78 ~~payment instruments or in~~ the activity of a payment instrument
 79 seller or money transmitter during the sandbox period.

80 12. Section 560.205(2).

81 13. Section 560.208(2).

82 14. Section 560.209, only to the extent that the office
 83 may modify, but may not entirely eliminate, the net worth,
 84 corporate surety bond, and collateral deposit amounts required
 85 under that section. The modified amounts must be in such lower
 86 amounts that the office determines to be commensurate with the
 87 factors under paragraph (5)(c) and the maximum number of
 88 consumers authorized to receive the financial product or service
 89 under this section.

90 Section 2. Subsections (14), (21), (23), (29), and (35) of
 91 section 560.103, Florida Statutes, are amended, and subsection
 92 (36) is added to that section, to read:

93 560.103 Definitions.—As used in this chapter, the term:

94 (14) "Electronic instrument" means a card, tangible
 95 object, or other form of electronic payment used for the
 96 transmission, ~~or~~ payment, ~~of money~~ or the exchange of currency
 97 or monetary value, including a stored value card or device that
 98 contains a microprocessor chip, magnetic stripe, or other means
 99 for storing information; that is prefunded; and for which the
 100 value is decremented upon each use.

101 (21) "Monetary value" means a medium of exchange, other
 102 than virtual currency, regardless of whether it is ~~or not~~
 103 redeemable in currency.

104 (23) "Money transmitter" means a corporation, limited
 105 liability company, limited liability partnership, or foreign
 106 entity qualified to do business in this state which receives
 107 currency, monetary value, a ~~or~~ payment instrument, or virtual
 108 currency instruments for the purpose of acting as an
 109 intermediary to transmit currency, monetary value, a payment
 110 instrument, or virtual currency from one person to another
 111 location or person transmitting the same by any means, including
 112 transmission by wire, facsimile, electronic transfer, courier,
 113 the Internet, or through bill payment services or other
 114 businesses that facilitate such transfer within this country, or
 115 to or from this country. The term includes only an intermediary
 116 that has the ability to unilaterally execute or indefinitely
 117 prevent a transaction.

118 (29) "Payment instrument" means a check, draft, warrant,
 119 money order, travelers check, electronic instrument, or other
 120 instrument used for the transmission, exchange, or payment of
 121 currency ~~money,~~ or monetary value, regardless of whether it is
 122 ~~or not~~ negotiable. The term does not include an instrument that
 123 is redeemable by the issuer in merchandise or service, a credit
 124 card voucher, or a letter of credit.

125 (35) "Stored value" means currency ~~funds~~ or monetary value

126 represented in digital electronic format, regardless of whether
 127 it is ~~or not~~ specially encrypted, and stored or capable of
 128 storage on electronic media in such a way as to be retrievable
 129 and transferred electronically.

130 (36) "Virtual currency" means a medium of exchange in
 131 electronic or digital format that is not currency. The term does
 132 not include a medium of exchange in electronic or digital format
 133 that is used:

134 (a) Solely within online gaming platforms with no market
 135 or application outside such gaming platforms; or

136 (b) Exclusively as part of a consumer affinity or rewards
 137 program and can be applied solely as payment for purchases with
 138 the issuer or other designated merchants but cannot be converted
 139 into or redeemed for currency or another medium of exchange.

140 Section 3. Subsections (2), (3), and (4) and paragraphs
 141 (b), (c), and (d) of subsection (8) of section 560.123, Florida
 142 Statutes, are amended to read:

143 560.123 Florida Control of Money Laundering in Money
 144 Services Business Act.—

145 (2) The purpose of this section is to require the
 146 maintenance of certain records of transactions involving
 147 currency, monetary value, ~~or~~ payment instruments, or virtual
 148 currency in order to deter the use of a money services business
 149 to conceal proceeds from criminal activity and to ensure the
 150 availability of such records for criminal, tax, or regulatory

151 investigations or proceedings.

152 (3) A money services business shall keep a record, as
153 prescribed by the commission, of each financial transaction
154 occurring in this state which it knows to involve currency,
155 monetary value, a ~~or other~~ payment instrument, or virtual
156 currency ~~as prescribed by the commission,~~ having a value greater
157 than \$10,000; to involve the proceeds of specified unlawful
158 activity; or to be designed to evade the reporting requirements
159 of this section or chapter 896. The money services business must
160 maintain appropriate procedures to ensure compliance with this
161 section and chapter 896.

162 (a) Multiple financial transactions shall be treated as a
163 single transaction if the money services business has knowledge
164 that they are made by or on behalf of any one person and result
165 in value ~~cash~~ in or value ~~cash~~ out totaling a value of more than
166 \$10,000 during any day.

167 (b) A money services business may keep a record of any
168 financial transaction occurring in this state, regardless of the
169 value, if it suspects that the transaction involves the proceeds
170 of unlawful activity.

171 (c) The money services business must file a report with
172 the office of any records required by this subsection, at such
173 time and containing such information as required by rule. The
174 timely filing of the report required by 31 U.S.C. s. 5313 with
175 the appropriate federal agency shall be deemed compliance with

176 the reporting requirements of this subsection unless the reports
 177 are not regularly and comprehensively transmitted by the federal
 178 agency to the office.

179 (d) A money services business, or officer, employee, or
 180 agent thereof, that files a report in good faith pursuant to
 181 this section is not liable to any person for loss or damage
 182 caused in whole or in part by the making, filing, or
 183 governmental use of the report, or any information contained
 184 therein.

185 (4) A money services business must comply with the money
 186 laundering, enforcement, and reporting provisions of s. 655.50
 187 relating to reports of transactions involving currency
 188 transactions and payment instruments, as applicable, and of
 189 chapter 896 concerning offenses relating to financial
 190 transactions.

191 (8)

192 (b) A person who willfully violates any provision of this
 193 section, if the violation involves:

194 1. Currency, monetary value, ~~or~~ payment instruments, or
 195 virtual currency of a value exceeding \$300 but less than \$20,000
 196 in any 12-month period, commits a felony of the third degree,
 197 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

198 2. Currency, monetary value, ~~or~~ payment instruments, or
 199 virtual currency of a value totaling or exceeding \$20,000 but
 200 less than \$100,000 in any 12-month period, commits a felony of

201 the second degree, punishable as provided in s. 775.082, s.
 202 775.083, or s. 775.084.

203 3. Currency, monetary value, ~~or~~ payment instruments, or
 204 virtual currency of a value totaling or exceeding \$100,000 in
 205 any 12-month period, commits a felony of the first degree,
 206 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

207 (c) In addition to the penalties authorized by s. 775.082,
 208 s. 775.083, or s. 775.084, a person who has been convicted of,
 209 or entered a plea of guilty or nolo contendere, regardless of
 210 adjudication, to having violated paragraph (b) may be sentenced
 211 to pay a fine of up to the greater of \$250,000 or twice the
 212 value of the currency, monetary value, ~~or~~ payment instruments,
 213 or virtual currency ~~whichever is greater,~~ except that on a
 214 second or subsequent conviction for or plea of guilty or nolo
 215 contendere, regardless of adjudication, to a violation of
 216 paragraph (b), the fine may be up to the greater of \$500,000 or
 217 quintuple the value of the currency, monetary value, ~~or~~ payment
 218 instruments, or virtual currency ~~whichever is greater.~~

219 (d) A person who violates this section is also liable for
 220 a civil penalty of up to ~~not more than~~ the greater of the value
 221 of the currency, monetary value, ~~or~~ payment instruments, or
 222 virtual currency involved or \$25,000.

223 Section 4. Subsections (5), (6), and (7) of section
 224 560.125, Florida Statutes, are amended to read:

225 560.125 Unlicensed activity; penalties.—

226 (5) A person who violates this section, if the violation
 227 involves:

228 (a) Currency, monetary value, ~~or~~ payment instruments, or
 229 virtual currency of a value exceeding \$300 but less than \$20,000
 230 in any 12-month period, commits a felony of the third degree,
 231 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

232 (b) Currency, monetary value, ~~or~~ payment instruments, or
 233 virtual currency of a value totaling or exceeding \$20,000 but
 234 less than \$100,000 in any 12-month period, commits a felony of
 235 the second degree, punishable as provided in s. 775.082, s.
 236 775.083, or s. 775.084.

237 (c) Currency, monetary value, ~~or~~ payment instruments, or
 238 virtual currency of a value totaling or exceeding \$100,000 in
 239 any 12-month period, commits a felony of the first degree,
 240 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

241 (6) In addition to the penalties authorized by s. 775.082,
 242 s. 775.083, or s. 775.084, a person who has been convicted of,
 243 or entered a plea of guilty or nolo contendere to, having
 244 violated this section may be sentenced to pay a fine of up to
 245 the greater of \$250,000 or twice the value of the currency,
 246 monetary value, ~~or~~ payment instruments, or virtual currency
 247 ~~whichever is greater,~~ except that on a second or subsequent
 248 violation of this section, the fine may be up to the greater of
 249 \$500,000 or quintuple the value of the currency, monetary value,
 250 ~~or~~ payment instruments, or virtual currency ~~whichever is~~

251 ~~greater.~~

252 (7) A person who violates this section is also liable for
253 a civil penalty of up to the greater of ~~not more than~~ the value
254 of the currency, monetary value, or ~~or~~ payment instruments, or
255 virtual currency involved or \$25,000, ~~whichever is greater.~~

256 Section 5. Subsection (1) of section 560.204, Florida
257 Statutes, is amended to read:

258 560.204 License required.-

259 (1) Unless exempted, a person may not engage in, or in any
260 manner advertise that they engage in, ~~the selling or issuing of~~
261 ~~payment instruments or in~~ the activity of a payment instrument
262 seller or money transmitter, for compensation, without first
263 obtaining a license under this part. For purposes of this
264 subsection ~~section~~, the term "compensation" includes profit or
265 loss on the exchange of currency, monetary value, or virtual
266 currency.

267 Section 6. Subsections (5) and (6) of section 560.208,
268 Florida Statutes, are amended to read:

269 560.208 Conduct of business.-In addition to the
270 requirements specified in s. 560.1401, a licensee under this
271 part:

272 (5) Shall, in the normal course of business, ensure that
273 currency, monetary value, payment instruments, or virtual
274 currency ~~money~~ transmitted is available to the designated
275 recipient within 10 business days after receipt.

276 (6) Shall immediately upon receipt of currency, monetary
 277 value, a ~~or~~ payment instrument, or virtual currency provide a
 278 confirmation or sequence number to the customer verbally, by
 279 paper, or electronically.

280 Section 7. Paragraph (b) of subsection (2) of section
 281 560.2085, Florida Statutes, is amended to read:

282 560.2085 Authorized vendors.—A licensee under this part
 283 shall:

284 (2) Enter into a written contract, signed by the licensee
 285 and the authorized vendor, which:

286 (b) Includes contract provisions that require the
 287 authorized vendor to:

288 1. Report to the licensee, immediately upon discovery, the
 289 theft or loss of currency, monetary value, a payment instrument,
 290 or virtual currency received for a transmission or for a payment
 291 instrument sold;

292 2. Display a notice to the public, in such form as
 293 prescribed by rule, that the vendor is the authorized vendor of
 294 the licensee;

295 3. Remit all amounts owed to the licensee for all
 296 transmissions accepted and all payment instruments sold in
 297 accordance with the contract between the licensee and the
 298 authorized vendor;

299 4. Hold in trust all currency, monetary value, ~~or~~ payment
 300 instruments, or virtual currency received for transmissions or

301 for the purchase of payment instruments from the time of receipt
 302 by the licensee or authorized vendor until the time the
 303 transmission obligation is completed;

304 5. Not commingle the currency, monetary value, payment
 305 instruments, or virtual currency ~~money~~ received for
 306 transmissions accepted or payment instruments sold on behalf of
 307 the licensee with the assets ~~money~~ or property of the authorized
 308 vendor, except for making change in the ordinary course of the
 309 vendor's business; ~~and~~

310 6. Ensure that the currency, monetary value, payment
 311 instruments, or virtual currency received for transmissions
 312 accepted or payment instruments sold ~~money~~ is accounted for at
 313 the end of the business day;

314 ~~7.6.~~ Consent to examination or investigation by the
 315 office;

316 ~~8.7.~~ Adhere to the applicable state and federal laws and
 317 rules pertaining to a money services business; and

318 ~~9.8.~~ Provide such other information or disclosure as may
 319 be required by rule.

320 Section 8. Subsections (2) and (3) of section 560.210,
 321 Florida Statutes, are renumbered as subsections (3) and (4),
 322 respectively, and a new subsection (2) is added to that section
 323 to read:

324 560.210 Permissible investments.—

325 (2) Each money transmitter that receives virtual currency,

326 either directly or through an authorized vendor, for the purpose
327 of transmitting such virtual currency from one person to another
328 location or person must at all times, until the transmission
329 obligation is completed, hold virtual currency of the same type
330 and amount owed or obligated to the other location or person.
331 Virtual currency received and held under this subsection is not
332 included in the amount of outstanding money transmissions for
333 purposes of calculating the permissible investments required by
334 subsection (1).

335 Section 9. Paragraphs (a), (e), and (f) of subsection (1)
336 of section 560.211, Florida Statutes, are amended, and paragraph
337 (j) is added to subsection (1) of that section, to read:

338 560.211 Required records.—

339 (1) In addition to the record retention requirements under
340 s. 560.1105, each licensee under this part must make, keep, and
341 preserve the following books, accounts, records, and documents
342 for 5 years:

343 (a) A daily record of payment instruments sold and of
344 currency, monetary value, payment instruments, or virtual
345 currency ~~money~~ transmitted.

346 (e) Records of outstanding payment instruments and of
347 currency, monetary value, payment instruments, or virtual
348 currency ~~money~~ transmitted.

349 (f) Records of each payment instrument paid and of
350 currency, monetary value, payment instruments, or virtual

351 currency transmitted ~~money transmission delivered~~.

352 (j) Any additional records, as prescribed by rule, related
 353 to virtual currency.

354 Section 10. Section 560.212, Florida Statutes, is amended
 355 to read:

356 560.212 Financial liability.—A licensee under this part is
 357 liable for the payment of all currency, monetary value, payment
 358 instruments, or virtual currency ~~money~~ transmitted and payment
 359 instruments that it sells, in whatever form and whether directly
 360 or through an authorized vendor, as the maker, drawer, or
 361 principal thereof, regardless of whether such items are ~~item is~~
 362 negotiable or nonnegotiable.

363 Section 11. This act shall take effect January 1, 2023.