

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: State Administration &
 2 Technology Appropriations Subcommittee
 3 Representative Zika offered the following:

Amendment (with title amendment)

Remove lines 44-422 and insert:

services business, or a person who has a controlling interest in a money services business as provided in s. 560.127.

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

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

Amendment No. 1

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

20 (5) "Cashing" means providing currency for payment
21 instruments except for travelers checks.

22 (6) "Check casher" means a person who sells currency in
23 exchange for payment instruments received, except travelers
24 checks.

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

26 (8) "Compliance officer" means the individual in charge of
27 overseeing, managing, and ensuring that a money services
28 business is in compliance with all state and federal laws and
29 rules relating to money services businesses, as applicable,
30 including all money laundering laws and rules.

31 (9) "Conductor" means a natural person who presents
32 himself or herself to a licensee for purposes of cashing a
33 payment instrument.

34 (10) "Control person" means any of the following:

35 (a) A person who holds the title of president, chief
36 executive officer, chief financial officer, chief operations
37 officer, chief legal officer, or compliance officer for a money
38 services business.

39 (b) A person who holds any of the officer positions named
40 in the money services business's governing documents.

Amendment No. 1

41 (c) A person who holds any position named by the money
42 services business's liability insurance coverage for directors
43 and officers, if the business has such coverage.

44 (d) A director of the money services business's board of
45 directors.

46 (e) A person who directs the affairs of a money services
47 business or who participates in, or has authority to participate
48 in, the major policymaking functions of a money services
49 business, regardless of whether the person has an official title
50 or receives a salary or other compensation.

51 (f) For a money services business that is a corporation,
52 all shareholders that, directly or indirectly, own 25 percent or
53 more or that have the power to vote 25 percent or more of a
54 class of voting securities.

55 (g) For a money services business that is a partnership,
56 all general partners, and those limited or special partners that
57 have contributed 25 percent or more or that have the right to
58 receive upon dissolution 25 percent or more of the partnership's
59 capital.

60 (h) For a money services business that is a limited
61 liability company, all managers, and those members that have
62 contributed 25 percent or more or that have the right to receive
63 upon dissolution 25 percent or more of the limited liability
64 company's capital.

Amendment No. 1

65 ~~(11)-(10)~~ "Corporate payment instrument" means a payment
66 instrument on which the payee named on the instrument's face is
67 other than a natural person.

68 ~~(12)-(11)~~ "Currency" means the coin and paper money of the
69 United States or of any other country which is designated as
70 legal tender and which circulates and is customarily used and
71 accepted as a medium of exchange in the country of issuance.
72 Currency includes United States silver certificates, United
73 States notes, and Federal Reserve notes. Currency also includes
74 official foreign bank notes that are customarily used and
75 accepted as a medium of exchange in a foreign country.

76 ~~(13)-(12)~~ "Deferred presentment provider" means a person
77 who is licensed under part II or part III of this chapter and
78 has filed a declaration of intent with the office to engage in
79 deferred presentment transactions as provided under part IV of
80 this chapter.

81 ~~(14)-(13)~~ "Department" means the Department of Financial
82 Services.

83 ~~(15)-(14)~~ "Electronic instrument" means a card, tangible
84 object, or other form of electronic payment for the transmission
85 or payment of money or the exchange of monetary value, including
86 a stored value card or device that contains a microprocessor
87 chip, magnetic stripe, or other means for storing information;
88 that is prefunded; and for which the value is decremented upon
89 each use.

Amendment No. 1

90 ~~(15)~~ (16) "Financial audit report" means a report prepared
91 in connection with a financial audit that is conducted in
92 accordance with generally accepted auditing standards prescribed
93 by the American Institute of Certified Public Accountants by a
94 certified public accountant licensed to do business in the
95 United States, and which must include:

96 (a) Financial statements, including notes related to the
97 financial statements and required supplementary information,
98 prepared in conformity with accounting principles generally
99 accepted in the United States. The notes must, at a minimum,
100 include detailed disclosures regarding receivables that are
101 greater than 90 days, if the total amount of such receivables
102 represents more than 2 percent of the licensee's total assets.

103 (b) An expression of opinion regarding whether the
104 financial statements are presented in conformity with accounting
105 principles generally accepted in the United States, or an
106 assertion to the effect that such an opinion cannot be expressed
107 and the reasons.

108 ~~(16)~~ (17) "Foreign affiliate" means a person located
109 outside this state who has been designated by a licensee to make
110 payments on behalf of the licensee to persons who reside outside
111 this state. The term also includes a person located outside of
112 this state for whom the licensee has been designated to make
113 payments in this state.

Amendment No. 1

114 ~~(18)~~~~(17)~~ "Foreign currency exchanger" means a person who
115 exchanges, for compensation, currency of the United States or a
116 foreign government to currency of another government.

117 ~~(19)~~~~(18)~~ "Fraudulent identification paraphernalia" means
118 all equipment, products, or materials of any kind that are used,
119 intended for use, or designed for use in the misrepresentation
120 of a customer's identity. The term includes, but is not limited
121 to:

122 (a) A signature stamp, thumbprint stamp, or other tool or
123 device used to forge a customer's personal identification
124 information.

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

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

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

137 ~~(20)~~~~(19)~~ "Licensee" means a person licensed under this
138 chapter.

Amendment No. 1

139 ~~(21)~~~~(20)~~ "Location" means a branch office, mobile
140 location, or location of an authorized vendor whose business
141 activity is regulated under this chapter.

142 ~~(22)~~~~(21)~~ "Monetary value" means a medium of exchange,
143 whether or not redeemable in currency.

144 ~~(23)~~~~(22)~~ "Money services business" means any person
145 located in or doing business in this state, from this state, or
146 into this state from locations outside this state or country who
147 acts as a payment instrument seller, foreign currency exchanger,
148 check casher, or money transmitter.

149 ~~(24)~~~~(23)~~ "Money transmitter" means a corporation, limited
150 liability company, limited liability partnership, or foreign
151 entity qualified to do business in this state which receives
152 currency, monetary value, or payment instruments for the purpose
153 of transmitting the same by any means, including transmission by
154 wire, facsimile, electronic transfer, courier, the Internet, or
155 through bill payment services or other businesses that
156 facilitate such transfer within this country, or to or from this
157 country.

158 ~~(25)~~~~(24)~~ "Net worth" means assets minus liabilities,
159 determined in accordance with United States generally accepted
160 accounting principles.

161 ~~(26)~~~~(25)~~ "Office" means the Office of Financial Regulation
162 of the commission.

Amendment No. 1

163 ~~(26) "Officer" means an individual, other than a director,~~
164 ~~who participates in, or has authority to participate in, the~~
165 ~~major policymaking functions of a money services business,~~
166 ~~regardless of whether the individual has an official title or~~
167 ~~receives a salary or other compensation.~~

168 (27) "Outstanding money transmission" means a money
169 transmission to a designated recipient or a refund to a sender
170 that has not been completed.

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

173 (29) "Payment instrument" means a check, draft, warrant,
174 money order, travelers check, electronic instrument, or other
175 instrument, payment of money, or monetary value whether or not
176 negotiable. The term does not include an instrument that is
177 redeemable by the issuer in merchandise or service, a credit
178 card voucher, or a letter of credit.

179 (30) "Payment instrument seller" means a corporation,
180 limited liability company, limited liability partnership, or
181 foreign entity qualified to do business in this state which
182 sells a payment instrument.

183 (31) "Person" means an individual, partnership,
184 association, trust, corporation, limited liability company, or
185 other group, however organized, but does not include a public
186 agency or instrumentality thereof.

Amendment No. 1

187 (32) "Personal identification information" means a
188 customer's name that, alone or together with any of the
189 following information, may be used to identify that specific
190 customer:

191 (a) Customer's signature.

192 (b) Photograph, digital image, or other likeness of the
193 customer.

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

197 ~~(33) "Responsible person" means an individual who is
198 employed by or affiliated with a money services business and who
199 has principal active management authority over the business
200 decisions, actions, and activities of the money services
201 business in this state.~~

202 (33) "Publicly traded" means a stock is currently traded
203 on a national securities exchange registered with the Securities
204 and Exchange Commission, or traded on an exchange in a country
205 other than the United States regulated by a regulator equivalent
206 to the Securities and Exchange Commission and the disclosure and
207 reporting requirements of such regulator are substantially
208 similar to those of the Securities and Exchange Commission.

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

210 (35) "Stored value" means funds or monetary value
211 represented in digital electronic format, whether or not

Amendment No. 1

212 specially encrypted, and stored or capable of storage on
213 electronic media in such a way as to be retrievable and
214 transferred electronically.

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

217 560.118 Reports.—

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

224 Section 3. Paragraph (d) of subsection (3) of section
225 560.123, Florida Statutes, is amended to read:

226 560.123 Florida Control of Money Laundering in Money
227 Services Business Act.—

228 (3) A money services business shall keep a record of each
229 financial transaction occurring in this state which it knows to
230 involve currency or other payment instrument, as prescribed by
231 the commission, having a value greater than \$10,000; to involve
232 the proceeds of specified unlawful activity; or to be designed
233 to evade the reporting requirements of this section or chapter
234 896. The money services business must maintain appropriate
235 procedures to ensure compliance with this section and chapter
236 896.

Amendment No. 1

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

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

245 560.126 Required notice by licensee.-

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

251 (a) If any person, directly or indirectly or acting by or
252 through one or more persons, proposes to purchase or acquire a
253 controlling interest in a licensee, such person or group must
254 submit an application for licensure as a money services business
255 or deferred presentment provider before such purchase or
256 acquisition at such time and in such form as prescribed by rule.
257 As used in this subsection, the term "controlling interest"
258 means the same as described in s. 560.127.

259 (b) Upon the addition of a control person, the office
260 shall evaluate the added control person and ensure that such
261 person has submitted fingerprints for processing pursuant to s.

Amendment No. 1

262 560.141(1)(c) partner, officer, member, joint venturer,
263 director, controlling shareholder, or responsible person of the
264 applicant who does not have a controlling interest and who has
265 not previously complied with the applicable provisions of ss.
266 560.1401 and 560.141 is subject to such provisions. If the
267 office determines that addition of the control person would
268 cause the money services business to no longer ~~the licensee does~~
269 ~~not continue to~~ meet the licensure requirements under this
270 chapter, the office may bring an administrative action in
271 accordance with s. 560.114 to enforce the provisions of this
272 chapter.

273 (c) The commission shall adopt rules providing for the
274 waiver of the license application required by this subsection if
275 the person or group of persons proposing to purchase or acquire
276 a controlling interest in a licensee has previously complied
277 with the applicable provisions of ss. 560.1401 and 560.141 under
278 the same legal entity or is currently licensed under this
279 chapter.

280 Section 5. Paragraphs (a) and (c) of subsection (1) of
281 section 560.141, Florida Statutes, are amended to read:

282 560.141 License application.—

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

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

Amendment No. 1

287 1. The legal name and address of the applicant, including
288 any fictitious or trade names used by the applicant in the
289 conduct of its business.

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

292 3. The name, social security number, alien identification
293 or taxpayer identification number, business and residence
294 addresses, and employment history for the past 5 years for each
295 ~~control person officer, director, responsible person, the~~
296 ~~compliance officer, each controlling shareholder, and any other~~
297 ~~person who has a controlling interest in the money services~~
298 ~~business as provided in s. 560.127.~~

299 4. A description of the organizational structure of the
300 applicant, including the identity of any parent or subsidiary of
301 the applicant, and the disclosure of whether any parent or
302 subsidiary is publicly traded.

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

307 6. If the applicant or its parent is a publicly traded
308 company, copies of all filings made by the applicant with the
309 United States Securities and Exchange Commission, or with a
310 similar regulator in a country other than the United States,
311 within the preceding year.

Amendment No. 1

312 7. The location at which the applicant proposes to
313 establish its principal place of business and any other
314 location, including branch offices and authorized vendors
315 operating in this state. For each branch office and each
316 location of an authorized vendor, the applicant shall include
317 the nonrefundable fee required by s. 560.143.

318 8. The name and address of the clearing financial
319 institution or financial institutions through which the
320 applicant's payment instruments are drawn or through which the
321 payment instruments are payable.

322 9. The history of the applicant's material litigation,
323 criminal convictions, pleas of nolo contendere, and cases of
324 adjudication withheld.

325 10. The history of material litigation, arrests, criminal
326 convictions, pleas of nolo contendere, and cases of adjudication
327 withheld for each control ~~executive officer, director,~~
328 ~~controlling shareholder, and responsible person.~~

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

331 12. Any other information specified in this chapter or by
332 rule.

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

Amendment No. 1

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

339 2. The Department of Law Enforcement must conduct the
340 state criminal history background check, and a federal criminal
341 history background check must be conducted through the Federal
342 Bureau of Investigation.

343 3. All fingerprints submitted to the Department of Law
344 Enforcement must be submitted electronically and entered into
345 the statewide automated fingerprint identification system
346 established in s. 943.05(2) (b) and available for use in
347 accordance with s. 943.05(2) (g) and (h). The office shall pay an
348 annual fee to the Department of Law Enforcement to participate
349 in the system and shall inform the Department of Law Enforcement
350 of any person whose fingerprints no longer must be retained.

351 4. The costs of fingerprint processing, including the cost
352 of retaining the fingerprints, shall be borne by the person
353 subject to the background check.

354 5. The office shall review the results of the state and
355 federal criminal history background checks and determine whether
356 the applicant meets licensure requirements.

357 6. For purposes of this paragraph, fingerprints are not
358 required to be submitted if the applicant is a publicly traded
359 corporation or is exempted from this chapter under s.
360 560.104(1). ~~The term "publicly traded" means a stock is~~

Amendment No. 1

361 ~~currently traded on a national securities exchange registered~~
362 ~~with the federal Securities and Exchange Commission or traded on~~
363 ~~an exchange in a country other than the United States regulated~~
364 ~~by a regulator equivalent to the Securities and Exchange~~
365 ~~Commission and the disclosure and reporting requirements of such~~
366 ~~regulator are substantially similar to those of the commission.~~

367 7. Licensees initially approved before October 1, 2013,
368 who are seeking renewal must submit fingerprints for each person
369 listed in subparagraph (a)3. for live-scan processing pursuant
370 to this paragraph. Such fingerprints must be submitted before
371 renewing a license that is scheduled to expire between April 30,
372 2014, and December 31, 2015.

373 -----
374
375 **T I T L E A M E N D M E N T**

376 Remove lines 14-28 and insert:

377 than certain other entities or persons; providing that
378 the addition of a control person, rather than certain
379 other entities or persons, is subject to certain
380 requirements; amending s. 560.141, F.S.; revising
381 requirements for applications for licensure as a money
382 services business; deleting the definition of the term
383 "publicly traded";