



26 | the definition of the term "publicly traded"; amending  
 27 | s. 560.143, F.S.; removing a limit on specified  
 28 | license application fees under certain circumstances;  
 29 | reenacting s. 559.952(4)(a), F.S., relating to the  
 30 | Financial Technology Sandbox, to incorporate the  
 31 | amendments made to ss. 560.118 and 560.141, F.S., in  
 32 | references thereto; reenacting s. 560.114(2)(c), F.S.,  
 33 | relating to disciplinary actions and penalties, to  
 34 | incorporate the amendment made to s. 560.141, F.S., in  
 35 | a reference thereto; providing an effective date.

36 |  
 37 | Be It Enacted by the Legislature of the State of Florida:

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

41 | 560.103 Definitions.—As used in this chapter, the term:

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

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

50 | (3) "Authorized vendor" means a person designated by a

51 money services business licensed under part II of this chapter  
52 to act on behalf of the licensee at locations in this state  
53 pursuant to a written contract with the licensee.

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

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

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

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

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

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

71 (10) "Control person" means:

72 (a) A person that possesses the power, directly or  
73 indirectly, to direct the management or policies of a money  
74 services business, whether through ownership of securities, by  
75 contract, or through other means, and regardless of whether such

76 person has an official title or receives a salary or other  
77 compensation. The following persons are each presumed to be a  
78 control person:

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

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

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

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

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

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

97 (d) For a trust, all trustees.

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

101 the limited liability company's capital.

102 (11)~~(10)~~ "Corporate payment instrument" means a payment  
103 instrument on which the payee named on the instrument's face is  
104 other than a natural person.

105 (12)~~(11)~~ "Currency" means the coin and paper money of the  
106 United States or of any other country which is designated as  
107 legal tender and which circulates and is customarily used and  
108 accepted as a medium of exchange in the country of issuance.  
109 Currency includes United States silver certificates, United  
110 States notes, and Federal Reserve notes. Currency also includes  
111 official foreign bank notes that are customarily used and  
112 accepted as a medium of exchange in a foreign country.

113 (13)~~(12)~~ "Deferred presentment provider" means a person  
114 who is licensed under part II or part III of this chapter and  
115 has filed a declaration of intent with the office to engage in  
116 deferred presentment transactions as provided under part IV of  
117 this chapter.

118 (14)~~(13)~~ "Department" means the Department of Financial  
119 Services.

120 (15)~~(14)~~ "Electronic instrument" means a card, tangible  
121 object, or other form of electronic payment for the transmission  
122 or payment of money or the exchange of monetary value, including  
123 a stored value card or device that contains a microprocessor  
124 chip, magnetic stripe, or other means for storing information;  
125 that is prefunded; and for which the value is decremented upon

126 each use.

127 (16)~~(15)~~ "Financial audit report" means a report prepared  
128 in connection with a financial audit that is conducted in  
129 accordance with generally accepted auditing standards prescribed  
130 by the American Institute of Certified Public Accountants by a  
131 certified public accountant licensed to do business in the  
132 United States, and which must include:

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

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

145 (17)~~(16)~~ "Foreign affiliate" means a person located  
146 outside this state who has been designated by a licensee to make  
147 payments on behalf of the licensee to persons who reside outside  
148 this state. The term also includes a person located outside of  
149 this state for whom the licensee has been designated to make  
150 payments in this state.

151        (18)~~(17)~~ "Foreign currency exchanger" means a person who  
152 exchanges, for compensation, currency of the United States or a  
153 foreign government to currency of another government.

154        (19)~~(18)~~ "Fraudulent identification paraphernalia" means  
155 all equipment, products, or materials of any kind that are used,  
156 intended for use, or designed for use in the misrepresentation  
157 of a customer's identity. The term includes, but is not limited  
158 to:

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

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

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

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

174        (20)~~(19)~~ "Licensee" means a person licensed under this  
175 chapter.

176        (21)~~(20)~~ "Location" means a branch office, mobile  
 177 location, or location of an authorized vendor whose business  
 178 activity is regulated under this chapter.

179        (22)~~(21)~~ "Monetary value" means a medium of exchange,  
 180 whether or not redeemable in currency.

181        (23)~~(22)~~ "Money services business" means any person  
 182 located in or doing business in this state, from this state, or  
 183 into this state from locations outside this state or country who  
 184 acts as a payment instrument seller, foreign currency exchanger,  
 185 check casher, or money transmitter.

186        (24)~~(23)~~ "Money transmitter" means a corporation, limited  
 187 liability company, limited liability partnership, or foreign  
 188 entity qualified to do business in this state which receives  
 189 currency, monetary value, or payment instruments for the purpose  
 190 of transmitting the same by any means, including transmission by  
 191 wire, facsimile, electronic transfer, courier, the Internet, or  
 192 through bill payment services or other businesses that  
 193 facilitate such transfer within this country, or to or from this  
 194 country.

195        (25)~~(24)~~ "Net worth" means assets minus liabilities,  
 196 determined in accordance with United States generally accepted  
 197 accounting principles.

198        (26)~~(25)~~ "Office" means the Office of Financial Regulation  
 199 of the commission.

200        ~~(26) "Officer" means an individual, other than a director,~~

201 ~~who participates in, or has authority to participate in, the~~  
 202 ~~major policymaking functions of a money services business,~~  
 203 ~~regardless of whether the individual has an official title or~~  
 204 ~~receives a salary or other compensation.~~

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

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

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

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

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

224 (32) "Personal identification information" means a  
 225 customer's name that, alone or together with any of the

226 following information, may be used to identify that specific  
227 customer:

228 (a) Customer's signature.

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

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

234 ~~(33) "Responsible person" means an individual who is~~  
235 ~~employed by or affiliated with a money services business and who~~  
236 ~~has principal active management authority over the business~~  
237 ~~decisions, actions, and activities of the money services~~  
238 ~~business in this state.~~

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

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

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

251 transferred electronically.

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

254 560.118 Reports.—

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

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

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

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

274 (d) A money services business, or control person ~~officer,~~  
 275 employee, or agent thereof, that files a report in good faith

276 pursuant to this section is not liable to any person for loss or  
277 damage caused in whole or in part by the making, filing, or  
278 governmental use of the report, or any information contained  
279 therein.

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

282 560.126 Required notice by licensee.—

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

288 ~~(a) If any person, directly or indirectly or acting by or~~  
289 ~~through one or more persons, proposes to purchase or acquire a~~  
290 ~~controlling interest in a licensee, such person or group must~~  
291 ~~submit an application for licensure as a money services business~~  
292 ~~or deferred presentment provider before such purchase or~~  
293 ~~acquisition at such time and in such form as prescribed by rule.~~  
294 ~~As used in this subsection, the term "controlling interest"~~  
295 ~~means the same as described in s. 560.127.~~

296 ~~(b) The addition of a control person partner, officer,~~  
297 ~~member, joint venturer, director, controlling shareholder, or~~  
298 ~~responsible person of the applicant who does not have a~~  
299 ~~controlling interest and who has not previously complied with~~  
300 the applicable provisions of ss. 560.1401 and 560.141 is subject

301 to such provisions. If the office determines that the licensee  
 302 does not continue to meet the licensure requirements, the office  
 303 may bring an administrative action in accordance with s. 560.114  
 304 to enforce the provisions of this chapter.

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

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

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

315 560.141 License application.—

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

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

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

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

325 3. The name, social security number, alien identification

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

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

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

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

345 7. The location at which the applicant proposes to  
346 establish its principal place of business and any other  
347 location, including branch offices and authorized vendors  
348 operating in this state. For each branch office and each  
349 location of an authorized vendor, the applicant shall include  
350 the nonrefundable fee required by s. 560.143.

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

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

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

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

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

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

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

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

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

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

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

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

400           7. Licensees initially approved before October 1, 2013,

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

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

408 560.143 Fees.—

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

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

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

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

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

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

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

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

423 Section 8. For the purpose of incorporating the amendments  
 424 made by this act to sections 560.118 and 560.141, Florida  
 425 Statutes, in references thereto, paragraph (a) of subsection (4)

426 of section 559.952, Florida Statutes, is reenacted to read:

427 559.952 Financial Technology Sandbox.—

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

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

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

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

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

445 4. Section 560.118(2).

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

450 6. Section 560.125(2), only to the extent that the

451 subsection would prohibit a licensee from appointing an  
452 authorized vendor during the sandbox period. Any authorized  
453 vendor of such a licensee during the sandbox period remains  
454 liable to the holder or remitter.

455 7. Section 560.128.

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

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

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

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

469 12. Section 560.205(2).

470 13. Section 560.208(2).

471 14. Section 560.209, only to the extent that the office  
472 may modify, but may not entirely eliminate, the net worth,  
473 corporate surety bond, and collateral deposit amounts required  
474 under that section. The modified amounts must be in such lower  
475 amounts that the office determines to be commensurate with the

476 factors under paragraph (5) (c) and the maximum number of  
477 consumers authorized to receive the financial product or service  
478 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  
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.