

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 in certain other entities or persons; providing  
15          that the addition of a control person, rather than  
16          certain other entities or persons, is subject to  
17          certain requirements; amending s. 560.141, F.S.;  
18          revising requirements for applications for licensure  
19          as a money services business; deleting the definition  
20          of the term "publicly traded"; reenacting s.  
21          559.952(4)(a), F.S., relating to the Financial  
22          Technology Sandbox, to incorporate the amendments made  
23          to ss. 560.118 and 560.141, F.S., in references  
24          thereto; reenacting s. 560.114(2)(c), F.S., relating  
25          to disciplinary actions and penalties, to incorporate

26 | the amendment made to s. 560.141, F.S., in a reference  
 27 | thereto; providing an effective date.

28 |

29 | Be It Enacted by the Legislature of the State of Florida:

30 |

31 | Section 1. Section 560.103, Florida Statutes, is amended  
 32 | to read:

33 | 560.103 Definitions.—As used in this chapter, the term:

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

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

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

46 | (4) "Branch office" means the physical location, other  
 47 | than the principal place of business, of a money services  
 48 | business operated by a licensee under this chapter.

49 | (5) "Cashing" means providing currency for payment  
 50 | instruments except for travelers checks.

51 (6) "Check cashier" means a person who sells currency in  
52 exchange for payment instruments received, except travelers  
53 checks.

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

55 (8) "Compliance officer" means the individual in charge of  
56 overseeing, managing, and ensuring that a money services  
57 business is in compliance with all state and federal laws and  
58 rules relating to money services businesses, as applicable,  
59 including all money laundering laws and rules.

60 (9) "Conductor" means a natural person who presents  
61 himself or herself to a licensee for purposes of cashing a  
62 payment instrument.

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

64 (a) A person who holds the title of president, chief  
65 executive officer, chief financial officer, chief operations  
66 officer, chief legal officer, or compliance officer for a money  
67 services business.

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

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

73 (d) A director of the money services business's board of  
74 directors.

75 (e) A person who directs the affairs of a money services

76 business or who participates in, or has authority to participate  
77 in, the major policymaking functions of a money services  
78 business, regardless of whether the person has an official title  
79 or receives a salary or other compensation.

80 (f) For a money services business that is a corporation,  
81 all shareholders that, directly or indirectly, own 25 percent or  
82 more or that have the power to vote 25 percent or more of a  
83 class of voting securities.

84 (g) For a money services business that is a partnership,  
85 all general partners, and those limited or special partners that  
86 have contributed 25 percent or more or that have the right to  
87 receive upon dissolution 25 percent or more of the partnership's  
88 capital.

89 (h) For a money services business that is a limited  
90 liability company, all managers, and those members that have  
91 contributed 25 percent or more or that have the right to receive  
92 upon dissolution 25 percent or more of the limited liability  
93 company's capital.

94 ~~(11)~~ ~~(10)~~ "Corporate payment instrument" means a payment  
95 instrument on which the payee named on the instrument's face is  
96 other than a natural person.

97 ~~(12)~~ ~~(11)~~ "Currency" means the coin and paper money of the  
98 United States or of any other country which is designated as  
99 legal tender and which circulates and is customarily used and  
100 accepted as a medium of exchange in the country of issuance.

101 Currency includes United States silver certificates, United  
102 States notes, and Federal Reserve notes. Currency also includes  
103 official foreign bank notes that are customarily used and  
104 accepted as a medium of exchange in a foreign country.

105 (13)~~(12)~~ "Deferred presentment provider" means a person  
106 who is licensed under part II or part III of this chapter and  
107 has filed a declaration of intent with the office to engage in  
108 deferred presentment transactions as provided under part IV of  
109 this chapter.

110 (14)~~(13)~~ "Department" means the Department of Financial  
111 Services.

112 (15)~~(14)~~ "Electronic instrument" means a card, tangible  
113 object, or other form of electronic payment for the transmission  
114 or payment of money or the exchange of monetary value, including  
115 a stored value card or device that contains a microprocessor  
116 chip, magnetic stripe, or other means for storing information;  
117 that is prefunded; and for which the value is decremented upon  
118 each use.

119 (16)~~(15)~~ "Financial audit report" means a report prepared  
120 in connection with a financial audit that is conducted in  
121 accordance with generally accepted auditing standards prescribed  
122 by the American Institute of Certified Public Accountants by a  
123 certified public accountant licensed to do business in the  
124 United States, and which must include:

125 (a) Financial statements, including notes related to the

126 financial statements and required supplementary information,  
127 prepared in conformity with accounting principles generally  
128 accepted in the United States. The notes must, at a minimum,  
129 include detailed disclosures regarding receivables that are  
130 greater than 90 days, if the total amount of such receivables  
131 represents more than 2 percent of the licensee's total assets.

132 (b) An expression of opinion regarding whether the  
133 financial statements are presented in conformity with accounting  
134 principles generally accepted in the United States, or an  
135 assertion to the effect that such an opinion cannot be expressed  
136 and the reasons.

137 (17)~~(16)~~ "Foreign affiliate" means a person located  
138 outside this state who has been designated by a licensee to make  
139 payments on behalf of the licensee to persons who reside outside  
140 this state. The term also includes a person located outside of  
141 this state for whom the licensee has been designated to make  
142 payments in this state.

143 (18)~~(17)~~ "Foreign currency exchanger" means a person who  
144 exchanges, for compensation, currency of the United States or a  
145 foreign government to currency of another government.

146 (19)~~(18)~~ "Fraudulent identification paraphernalia" means  
147 all equipment, products, or materials of any kind that are used,  
148 intended for use, or designed for use in the misrepresentation  
149 of a customer's identity. The term includes, but is not limited  
150 to:

151 (a) A signature stamp, thumbprint stamp, or other tool or  
152 device used to forge a customer's personal identification  
153 information.

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

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

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

166 (20)~~(19)~~ "Licensee" means a person licensed under this  
167 chapter.

168 (21)~~(20)~~ "Location" means a branch office, mobile  
169 location, or location of an authorized vendor whose business  
170 activity is regulated under this chapter.

171 (22)~~(21)~~ "Monetary value" means a medium of exchange,  
172 whether or not redeemable in currency.

173 (23)~~(22)~~ "Money services business" means any person  
174 located in or doing business in this state, from this state, or  
175 into this state from locations outside this state or country who

176 acts as a payment instrument seller, foreign currency exchanger,  
177 check casher, or money transmitter.

178 (24)~~(23)~~ "Money transmitter" means a corporation, limited  
179 liability company, limited liability partnership, or foreign  
180 entity qualified to do business in this state which receives  
181 currency, monetary value, or payment instruments for the purpose  
182 of transmitting the same by any means, including transmission by  
183 wire, facsimile, electronic transfer, courier, the Internet, or  
184 through bill payment services or other businesses that  
185 facilitate such transfer within this country, or to or from this  
186 country.

187 (25)~~(24)~~ "Net worth" means assets minus liabilities,  
188 determined in accordance with United States generally accepted  
189 accounting principles.

190 (26)~~(25)~~ "Office" means the Office of Financial Regulation  
191 of the commission.

192 ~~(26) "Officer" means an individual, other than a director,~~  
193 ~~who participates in, or has authority to participate in, the~~  
194 ~~major policymaking functions of a money services business,~~  
195 ~~regardless of whether the individual has an official title or~~  
196 ~~receives a salary or other compensation.~~

197 (27) "Outstanding money transmission" means a money  
198 transmission to a designated recipient or a refund to a sender  
199 that has not been completed.

200 (28) "Outstanding payment instrument" means an unpaid



201 payment instrument whose sale has been reported to a licensee.

202 (29) "Payment instrument" means a check, draft, warrant,  
 203 money order, travelers check, electronic instrument, or other  
 204 instrument, payment of money, or monetary value whether or not  
 205 negotiable. The term does not include an instrument that is  
 206 redeemable by the issuer in merchandise or service, a credit  
 207 card voucher, or a letter of credit.

208 (30) "Payment instrument seller" means a corporation,  
 209 limited liability company, limited liability partnership, or  
 210 foreign entity qualified to do business in this state which  
 211 sells a payment instrument.

212 (31) "Person" means an individual, partnership,  
 213 association, trust, corporation, limited liability company, or  
 214 other group, however organized, but does not include a public  
 215 agency or instrumentality thereof.

216 (32) "Personal identification information" means a  
 217 customer's name that, alone or together with any of the  
 218 following information, may be used to identify that specific  
 219 customer:

220 (a) Customer's signature.

221 (b) Photograph, digital image, or other likeness of the  
 222 customer.

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

226 ~~(33) "Responsible person" means an individual who is~~  
 227 ~~employed by or affiliated with a money services business and who~~  
 228 ~~has principal active management authority over the business~~  
 229 ~~decisions, actions, and activities of the money services~~  
 230 ~~business in this state.~~

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

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

239 (35) "Stored value" means funds or monetary value  
 240 represented in digital electronic format, whether or not  
 241 specially encrypted, and stored or capable of storage on  
 242 electronic media in such a way as to be retrievable and  
 243 transferred electronically.

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

246 560.118 Reports.—

247 (2) Each licensee must submit quarterly reports to the  
 248 office in a format and include information as specified by rule.  
 249 The rule may require the report to contain a declaration by a  
 250 control ~~an officer, or any other responsible~~ person authorized

251 to make such declaration, that the report is true and correct to  
252 the best of her or his knowledge and belief.

253 Section 3. Paragraph (d) of subsection (3) of section  
254 560.123, Florida Statutes, is amended to read:

255 560.123 Florida Control of Money Laundering in Money  
256 Services Business Act.—

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

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

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

274 560.126 Required notice by licensee.—

275 (3) Each licensee must report any change in the control

276 ~~partners, officers, members, joint venturers, directors,~~  
277 ~~controlling shareholders, or responsible persons of the licensee~~  
278 or changes in the form of business organization by written  
279 amendment in such form and at such time as specified by rule.

280 (a) If any person, directly or indirectly or acting by or  
281 through one or more persons, proposes to purchase or acquire a  
282 controlling interest in a licensee, such person or group must  
283 submit an application for licensure as a money services business  
284 or deferred presentment provider before such purchase or  
285 acquisition at such time and in such form as prescribed by rule.  
286 As used in this subsection, the term "controlling interest"  
287 means the same as described in s. 560.127.

288 (b) Upon the addition of a control person, the office  
289 shall evaluate the added control person and ensure that such  
290 person has submitted fingerprints for processing pursuant to s.  
291 560.141(1)(c) partner, officer, member, joint venturer,  
292 director, controlling shareholder, or responsible person of the  
293 applicant who does not have a controlling interest and who has  
294 not previously complied with the applicable provisions of ss.  
295 560.1401 and 560.141 is subject to such provisions. If the  
296 office determines that the addition of the control person would  
297 cause the money services business to no longer the licensee does  
298 not continue to meet the licensure requirements under this  
299 chapter, the office may bring an administrative action in  
300 accordance with s. 560.114 to enforce the provisions of this

301 chapter.

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

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

311 560.141 License application.—

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

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

316 1. The legal name and address of the applicant, including  
 317 any fictitious or trade names used by the applicant in the  
 318 conduct of its business.

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

321 3. The name, social security number, alien identification  
 322 or taxpayer identification number, business and residence  
 323 addresses, and employment history for the past 5 years for each  
 324 control person ~~officer, director, responsible person, the~~  
 325 ~~compliance officer, each controlling shareholder, and any other~~

326 ~~person who has a controlling interest in the money services~~  
327 ~~business as provided in s. 560.127.~~

328 4. A description of the organizational structure of the  
329 applicant, including the identity of any parent or subsidiary of  
330 the applicant, and the disclosure of whether any parent or  
331 subsidiary is publicly traded.

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

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

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

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

351           9. The history of the applicant's material litigation,  
 352 criminal convictions, pleas of nolo contendere, and cases of  
 353 adjudication withheld.

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

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

360           12. Any other information specified in this chapter or by  
 361 rule.

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

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

368           2. The Department of Law Enforcement must conduct the  
 369 state criminal history background check, and a federal criminal  
 370 history background check must be conducted through the Federal  
 371 Bureau of Investigation.

372           3. All fingerprints submitted to the Department of Law  
 373 Enforcement must be submitted electronically and entered into  
 374 the statewide automated fingerprint identification system  
 375 established in s. 943.05(2) (b) and available for use in

376 accordance with s. 943.05(2)(g) and (h). The office shall pay an  
377 annual fee to the Department of Law Enforcement to participate  
378 in the system and shall inform the Department of Law Enforcement  
379 of any person whose fingerprints no longer must be retained.

380 4. The costs of fingerprint processing, including the cost  
381 of retaining the fingerprints, shall be borne by the person  
382 subject to the background check.

383 5. The office shall review the results of the state and  
384 federal criminal history background checks and determine whether  
385 the applicant meets licensure requirements.

386 6. For purposes of this paragraph, fingerprints are not  
387 required to be submitted if the applicant is a publicly traded  
388 corporation or is exempted from this chapter under s.  
389 560.104(1). ~~The term "publicly traded" means a stock is~~  
390 ~~currently traded on a national securities exchange registered~~  
391 ~~with the federal Securities and Exchange Commission or traded on~~  
392 ~~an exchange in a country other than the United States regulated~~  
393 ~~by a regulator equivalent to the Securities and Exchange~~  
394 ~~Commission and the disclosure and reporting requirements of such~~  
395 ~~regulator are substantially similar to those of the commission.~~

396 7. Licensees initially approved before October 1, 2013,  
397 who are seeking renewal must submit fingerprints for each person  
398 listed in subparagraph (a)3. for live-scan processing pursuant  
399 to this paragraph. Such fingerprints must be submitted before  
400 renewing a license that is scheduled to expire between April 30,



401 2014, and December 31, 2015.

402 Section 6. For the purpose of incorporating the amendments  
 403 made by this act to sections 560.118 and 560.141, Florida  
 404 Statutes, in references thereto, paragraph (a) of subsection (4)  
 405 of section 559.952, Florida Statutes, is reenacted to read:

406 559.952 Financial Technology Sandbox.—

407 (4) EXCEPTIONS TO GENERAL LAW AND WAIVERS OF RULE  
 408 REQUIREMENTS.—

409 (a) Notwithstanding any other law, upon approval of a  
 410 Financial Technology Sandbox application, the following  
 411 provisions and corresponding rule requirements are not  
 412 applicable to the licensee during the sandbox period:

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

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

421 3. Section 560.109, only to the extent that the section  
 422 requires the office to examine a licensee at least once every 5  
 423 years.

424 4. Section 560.118(2).

425 5. Section 560.125(1), only to the extent that the

426 subsection would prohibit a licensee from engaging in the  
427 business of a money transmitter or payment instrument seller  
428 during the sandbox period.

429 6. Section 560.125(2), only to the extent that the  
430 subsection would prohibit a licensee from appointing an  
431 authorized vendor during the sandbox period. Any authorized  
432 vendor of such a licensee during the sandbox period remains  
433 liable to the holder or remitter.

434 7. Section 560.128.

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

437 9. Section 560.142(1) and (2), except that the office may  
438 prorate, but may not entirely eliminate, the license renewal  
439 fees in s. 560.143 for an extension granted under subsection  
440 (7).

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

443 11. Section 560.204(1), only to the extent that the  
444 subsection would prohibit a licensee from engaging in, or  
445 advertising that it engages in, the selling or issuing of  
446 payment instruments or in the activity of a money transmitter  
447 during the sandbox period.

448 12. Section 560.205(2).

449 13. Section 560.208(2).

450 14. Section 560.209, only to the extent that the office

451 may modify, but may not entirely eliminate, the net worth,  
452 corporate surety bond, and collateral deposit amounts required  
453 under that section. The modified amounts must be in such lower  
454 amounts that the office determines to be commensurate with the  
455 factors under paragraph (5) (c) and the maximum number of  
456 consumers authorized to receive the financial product or service  
457 under this section.

458 Section 7. For the purpose of incorporating the amendment  
459 made by this act to section 560.141, Florida Statutes, in a  
460 reference thereto, paragraph (c) of subsection (2) of section  
461 560.114, Florida Statutes, is reenacted, to read:

462 560.114 Disciplinary actions; penalties.—

463 (2) Pursuant to s. 120.60(6), the office may summarily  
464 suspend the license of a money services business if the office  
465 finds that a licensee poses an immediate, serious danger to the  
466 public health, safety, and welfare. A proceeding in which the  
467 office seeks the issuance of a final order for the summary  
468 suspension of a licensee shall be conducted by the commissioner  
469 of the office, or his or her designee, who shall issue such  
470 order. The following acts are deemed to constitute an immediate  
471 and serious danger to the public health, safety, and welfare,  
472 and the office may immediately suspend the license of a money  
473 services business if:

474 (c) A natural person required to be listed on the license  
475 application for a money services business pursuant to s.

476 | 560.141(1)(a)3. is criminally charged with, or arrested for, a  
477 | crime described in paragraph (1)(o), paragraph (1)(p), or  
478 | paragraph(1)(q).

479 | Section 8. This act shall take effect October 1, 2022.