

By Senator Brodeur

9-00015A-22

2022486__

1 A bill to be entitled
2 An act relating to money services businesses; amending
3 s. 559.952, F.S.; revising exceptions to general laws
4 and rules for licensees during the Financial
5 Technology Sandbox period; amending s. 560.103, F.S.;
6 revising definitions; defining the term "virtual
7 currency"; amending s. 560.123, F.S.; revising the
8 purpose of the Florida Control of Money Laundering in
9 Money Services Business Act; revising the duties of
10 money services businesses; revising civil and criminal
11 penalties; amending s. 560.125, F.S.; revising
12 criminal and civil penalties for certain violations
13 relating to unlicensed activity involving money
14 services businesses and deferred presentment
15 providers; amending s. 560.204, F.S.; revising
16 provisions related to certain prohibited activities
17 without a license or an exemption; revising the
18 definition of the term "compensation"; amending s.
19 560.208, F.S.; revising requirements for a money
20 transmitter or payment instrument seller to conduct
21 business; amending s. 560.2085, F.S.; revising
22 requirements for written contracts between money
23 transmitters or payment instrument sellers and
24 authorized vendors; amending s. 560.210, F.S.;
25 requiring money transmitters that receive virtual
26 currency for specified purposes to hold a certain type
27 and amount of virtual currency until the transmission
28 obligation is completed; excluding such virtual
29 currency in the calculation of permissible

9-00015A-22

2022486__

30 investments; amending s. 560.211, F.S.; revising
31 recordkeeping requirements for money transmitters or
32 payment instrument sellers; amending s. 560.212, F.S.;
33 revising financial liability requirements for money
34 transmitters or payment instrument sellers; providing
35 an effective date.

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

38
39 Section 1. Paragraph (a) of subsection (4) of section
40 559.952, Florida Statutes, is amended to read:

41 559.952 Financial Technology Sandbox.—

42 (4) EXCEPTIONS TO GENERAL LAW AND WAIVERS OF RULE
43 REQUIREMENTS.—

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

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

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

56 3. Section 560.109, only to the extent that the section
57 requires the office to examine a licensee at least once every 5
58 years.

9-00015A-22

2022486__

59 4. Section 560.118(2).

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

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

69 7. Section 560.128.

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

72 9. Section 560.142(1) and (2), except that the office may
73 prorate, but may not entirely eliminate, the license renewal
74 fees in s. 560.143 for an extension granted under subsection
75 (7).

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

78 11. Section 560.204(1), only to the extent that the
79 subsection would prohibit a licensee from engaging in, or
80 advertising that it engages in, ~~the selling or issuing of~~
81 ~~payment instruments or in~~ the activity of a payment instrument
82 seller or money transmitter during the sandbox period.

83 12. Section 560.205(2).

84 13. Section 560.208(2).

85 14. Section 560.209, only to the extent that the office may
86 modify, but may not entirely eliminate, the net worth, corporate
87 surety bond, and collateral deposit amounts required under that

9-00015A-22

2022486__

88 section. The modified amounts must be in such lower amounts that
89 the office determines to be commensurate with the factors under
90 paragraph (5)(c) and the maximum number of consumers authorized
91 to receive the financial product or service under this section.

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

95 560.103 Definitions.—As used in this chapter, the term:

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

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

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

9-00015A-22

2022486__

117 to or from this country. The term includes only an intermediary
118 that has the ability to unilaterally execute or indefinitely
119 prevent a transaction.

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

127 (35) "Stored value" means currency ~~funds~~ or monetary value
128 represented in digital electronic format, regardless of whether
129 it is ~~or not~~ specially encrypted, and stored or capable of
130 storage on electronic media in such a way as to be retrievable
131 and transferred electronically.

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

136 (a) Solely within online gaming platforms, with no market
137 or application outside those gaming platforms; or

138 (b) Exclusively as part of a consumer affinity or rewards
139 program and which can be applied solely as payment for purchases
140 with the issuer or other designated merchants, but which cannot
141 be converted into or redeemed for currency, monetary value, or
142 virtual currency.

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

9-00015A-22

2022486__

146 560.123 Florida Control of Money Laundering in Money
147 Services Business Act.—

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

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

165 (a) Multiple financial transactions shall be treated as a
166 single transaction if the money services business has knowledge
167 that they are made by or on behalf of any one person and result
168 in value cash in or value cash out totaling a value of more than
169 \$10,000 during any day.

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

174 (c) The money services business must file a report with the

9-00015A-22

2022486__

175 office of any records required by this subsection, at such time
176 and containing such information as required by rule. The timely
177 filing of the report required by 31 U.S.C. s. 5313 with the
178 appropriate federal agency shall be deemed compliance with the
179 reporting requirements of this subsection unless the reports are
180 not regularly and comprehensively transmitted by the federal
181 agency to the office.

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

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

194 (8)

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

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

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

9-00015A-22

2022486__

204 the second degree, punishable as provided in s. 775.082, s.
205 775.083, or s. 775.084.

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

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

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

226 Section 4. Subsections (5), (6), and (7) of section
227 560.125, Florida Statutes, are amended to read:

228 560.125 Unlicensed activity; penalties.—

229 (5) A person who violates this section, if the violation
230 involves:

231 (a) Currency, monetary value, ~~or~~ payment instruments, or
232 virtual currency of a value exceeding \$300 but less than \$20,000

9-00015A-22

2022486__

233 in any 12-month period, commits a felony of the third degree,
234 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

235 (b) Currency, monetary value, ~~or~~ payment instruments, or
236 virtual currency of a value totaling or exceeding \$20,000 but
237 less than \$100,000 in any 12-month period, commits a felony of
238 the second degree, punishable as provided in s. 775.082, s.
239 775.083, or s. 775.084.

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

244 (6) In addition to the penalties authorized by s. 775.082,
245 s. 775.083, or s. 775.084, a person who has been convicted of,
246 or entered a plea of guilty or nolo contendere to, having
247 violated this section may be sentenced to pay a fine of up to
248 the greater of \$250,000 or twice the value of the currency,
249 monetary value, ~~or~~ payment instruments, or virtual currency
250 ~~whichever is greater~~, except that on a second or subsequent
251 violation of this section, the fine may be up to the greater of
252 \$500,000 or quintuple the value of the currency, monetary value,
253 ~~or~~ payment instruments, or virtual currency ~~whichever is~~
254 ~~greater~~.

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

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

261 560.204 License required.—

9-00015A-22

2022486__

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

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

272 560.208 Conduct of business.—In addition to the
273 requirements specified in s. 560.1401, a licensee under this
274 part:

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

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

283 Section 7. Paragraph (b) of subsection (2) of section
284 560.2085, Florida Statutes, is amended to read:

285 560.2085 Authorized vendors.—A licensee under this part
286 shall:

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

289 (b) Includes contract provisions that require the
290 authorized vendor to:

9-00015A-22

2022486__

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

295 2. Display a notice to the public, in such form as
296 prescribed by rule, that the vendor is the authorized vendor of
297 the licensee;

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

302 4. Hold in trust all currency, monetary value, or payment
303 instruments, or virtual currency received for transmissions or
304 for the purchase of payment instruments from the time of receipt
305 by the licensee or authorized vendor until the time the
306 transmission obligation is completed;

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

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

317 ~~7.6.~~ Consent to examination or investigation by the office;

318 ~~8.7.~~ Adhere to the applicable state and federal laws and
319 rules pertaining to a money services business; and

9-00015A-22

2022486__

320 ~~9.8.~~ Provide such other information or disclosure as may be
321 required by rule.

322 Section 8. Present subsections (2) and (3) of section
323 560.210, Florida Statutes, are redesignated as subsections (3)
324 and (4), respectively, and a new subsection (2) is added to that
325 section, to read:

326 560.210 Permissible investments.—

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

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

340 560.211 Required records.—

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

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

348 (e) Records of outstanding payment instruments and of

9-00015A-22

2022486__

349 currency, monetary value, payment instruments, or virtual
350 currency ~~money~~ transmitted.

351 (f) Records of each payment instrument paid and of each
352 currency, monetary value, payment instruments, or virtual
353 currency ~~money~~ transmission delivered.

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

356 Section 10. Section 560.212, Florida Statutes, is amended
357 to read:

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

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