

By the Committee on Appropriations; and Senator Brodeur

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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

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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.

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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

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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

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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:

136 (a) Issued by or on behalf of a publisher and used solely
137 within an online game, game platform, or family of games sold by
138 the same publisher or offered on the same game platform; or

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

144 Section 3. Subsections (2), (3), and (4) and paragraphs
145 (b), (c), and (d) of subsection (8) of section 560.123, Florida

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146 Statutes, are amended to read:

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

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

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

166 (a) Multiple financial transactions shall be treated as a
167 single transaction if the money services business has knowledge
168 that they are made by or on behalf of any one person and result
169 in value ~~cash~~ in or value ~~cash~~ out totaling a value of more than
170 \$10,000 during any day.

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

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

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

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

195 (8)

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

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

202 2. Currency, monetary value, ~~or~~ payment instruments, or
203 virtual currency of a value totaling or exceeding \$20,000 but

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204 less than \$100,000 in any 12-month period, commits a felony of
205 the second degree, punishable as provided in s. 775.082, s.
206 775.083, or s. 775.084.

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

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

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

227 Section 4. Subsections (5), (6), and (7) of section
228 560.125, Florida Statutes, are amended to read:

229 560.125 Unlicensed activity; penalties.—

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

232 (a) Currency, monetary value, ~~or~~ payment instruments, or

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233 virtual currency of a value exceeding \$300 but less than \$20,000
234 in any 12-month period, commits a felony of the third degree,
235 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

236 (b) Currency, monetary value, ~~or~~ payment instruments, or
237 virtual currency of a value totaling or exceeding \$20,000 but
238 less than \$100,000 in any 12-month period, commits a felony of
239 the second degree, punishable as provided in s. 775.082, s.
240 775.083, or s. 775.084.

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

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

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

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

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262 560.204 License required.—

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

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

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

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

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

284 Section 7. Paragraph (b) of subsection (2) of section
285 560.2085, Florida Statutes, is amended to read:

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

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

290 (b) Includes contract provisions that require the

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291 authorized vendor to:

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

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

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

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

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

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

318 ~~7.6.~~ Consent to examination or investigation by the office;

319 ~~8.7.~~ Adhere to the applicable state and federal laws and

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320 rules pertaining to a money services business; and

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

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

327 560.210 Permissible investments.—

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

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

341 560.211 Required records.—

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

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

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349 (e) Records of outstanding payment instruments and of
350 currency, monetary value, payment instruments, or virtual
351 currency ~~money~~ transmitted.

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

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

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

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

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