An act relating to virtual currency kiosks; amending s. 560.103, F.S.; revising the definition of the term "money services business"; defining terms; amending s. 560.105, F.S.; revising the requirements for certain rules adopted by the Financial Services Commission; amending s. 560.114, F.S.; revising the actions by money services businesses, authorized vendors, or affiliated parties which constitute grounds for disciplinary action; amending s. 560.125, F.S.; prohibiting persons from engaging in certain business unless they are registered or exempt from registration; creating part V of ch. 560, F.S., entitled "Virtual Currency Kiosk Businesses"; creating s. 560.501, F.S.; defining terms; creating s. 560.502, F.S.; prohibiting a virtual currency kiosk business from operating in this state without registering or renewing its registration; requiring the Office of Financial Regulation to give a specified notice to applicants; specifying that certain money transmitters are exempt from registration as a virtual currency kiosk business but are subject to certain provisions; prohibiting certain entities from performing certain actions without being licensed as a money services business; specifying that virtual currency kiosk business registrations are not transferable or assignable; creating s. 560.503, F.S.; requiring applicants to submit certain information to the office to be registered as a virtual currency kiosk business; requiring certain virtual currency kiosk businesses to submit a registration application to the office by a specified date; requiring registrants to report a change in the information within a specified timeframe; requiring registrants to renew their registration annually; specifying requirements for a renewal application; requiring registrants to be made inactive for a specified timeframe under certain circumstances; prohibiting registrants from conducting business while registration is inactive; specifying requirements for registrants to renew an inactive registration; providing that a renewal registration becomes effective on a specified date; requiring the office to approve applications for renewal registration within a specified timeframe; providing that a registration expires under certain circumstances; providing requirements if a registration expires; authorizing the office to deny certain applications under certain circumstances; providing that certain false statements made by a virtual currency kiosk business render its registration void; providing construction; creating s. 560.504, F.S.; requiring a virtual currency kiosk business to ensure that its virtual currency kiosk requires certain attestations from the customer and displays a certain disclosure; creating s. 560.505, F.S.; prohibiting a virtual currency kiosk business from permitting new or existing customers from transacting more than specified dollar amounts per calendar day; creating s. 560.506, F.S.; requiring a virtual currency kiosk business to provide a customer with a specified physical or electronic receipt upon completion of a virtual currency transaction; creating s. 560.507, F.S.; requiring a virtual currency kiosk business to issue a full refund under certain circumstances; providing effective dates.

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

Section 1. Subsection (23) of section 560.103, Florida Statutes, is amended, and subsections (37), (38), and (39) are added to that section, to read:

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

(23) "Money services business" means any person located in or doing business in this state, from this state, or into this state from locations outside this state or country who acts as a

payment instrument seller, foreign currency exchanger, check casher, ~~or~~ money transmitter, or virtual currency kiosk business.

(37) "Virtual currency kiosk" means an electronic terminal that acts as a mechanical agent of the kiosk business, enabling the kiosk business to facilitate the exchange of virtual currency for fiat currency or other virtual currency for a customer.

(38) "Virtual currency kiosk business" or "kiosk business" means a corporation, limited liability company, limited liability partnership, or foreign entity qualified to do business in this state which offers virtual currency kiosk services to a customer in this state.

(39) "Virtual currency kiosk transaction" means the process by which a customer uses a virtual currency kiosk to exchange virtual currency for fiat currency or other virtual currency. A transaction begins at the point at which the customer is able to initiate a transaction after the customer is given the option to select the type of transaction or account and does not include any of the screens that display the required terms and conditions, disclaimers, or attestations.

Section 2. Paragraph (b) of subsection (2) of section 560.105, Florida Statutes, is amended to read:

560.105 Supervisory powers; rulemaking.—

(2) The commission may adopt rules pursuant to ss.

120.536(1) and 120.54 to administer this chapter.

(b) Rules adopted to regulate money services businesses, including deferred presentment providers and virtual currency kiosk businesses, must be responsive to changes in economic conditions, technology, and industry practices.

Section 3. Paragraph (w) of subsection (1) of section 560.114, Florida Statutes, is amended to read:

560.114 Disciplinary actions; penalties.—

(1) The following actions by a money services business, authorized vendor, or affiliated party constitute grounds for the issuance of a cease and desist order; the issuance of a removal order; the denial, suspension, or revocation of a license; or taking any other action within the authority of the office pursuant to this chapter:

(w) Engaging or advertising engagement in the business of a money services business or deferred presentment provider without a license or registration, unless exempted from licensure or registration.

Section 4. Section 560.125, Florida Statutes, is amended to read:

560.125 Unlicensed or unregistered activity; penalties.—

(1) A person may not engage in the business of a money services business or deferred presentment provider in this state unless the person is licensed or registered, or exempted from licensure or registration under this chapter. A deferred

presentment transaction conducted by a person not authorized to conduct such transaction under this chapter is void, and the unauthorized person has no right to collect, receive, or retain any principal, interest, or charges relating to such transaction.

(2) Only a money services business licensed under part II of this chapter may appoint an authorized vendor. Any person acting as a vendor for an unlicensed money transmitter or payment instrument issuer becomes the principal thereof, and no longer merely acts as a vendor, and is liable to the holder or remitter as a principal money transmitter or payment instrument seller.

(3) Any person whose substantial interests are affected by a proceeding brought by the office pursuant to this chapter may, pursuant to s. 560.113, petition any court of competent jurisdiction to enjoin the person or activity that is the subject of the proceeding from violating any of the provisions of this section. For the purpose of this subsection, any money services business licensed under this chapter, any person residing in this state, and any person whose principal place of business is in this state are presumed to be substantially affected. In addition, the interests of a trade organization or association are deemed substantially affected if the interests of any of its members are affected.

(4) The office may issue and serve upon any person who

violates any of the provisions of this section a complaint seeking a cease and desist order or impose an administrative fine as provided in s. 560.114.

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

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

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

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

(6) In addition to the penalties authorized by s. 775.082, s. 775.083, or s. 775.084, a person who has been convicted of, or entered a plea of guilty or nolo contendere to, having violated this section may be sentenced to pay a fine of up to the greater of $250,000 or twice the value of the currency, monetary value, payment instruments, or virtual currency, except that on a second or subsequent violation of this section the

fine may be up to the greater of $500,000 or quintuple the value of the currency, monetary value, payment instruments, or virtual currency.

(7) A person who violates this section is also liable for a civil penalty of up to the greater of the value of the currency, monetary value, payment instruments, or virtual currency involved or $25,000.

(8) In any prosecution brought pursuant to this section, the common law corpus delicti rule does not apply. The defendant's confession or admission is admissible during trial without the state having to prove the corpus delicti if the court finds in a hearing conducted outside the presence of the jury that the defendant's confession or admission is trustworthy. Before the court admits the defendant's confession or admission, the state must prove by a preponderance of the evidence that there is sufficient corroborating evidence that tends to establish the trustworthiness of the statement by the defendant. Hearsay evidence is admissible during the presentation of evidence at the hearing. In making its determination, the court may consider all relevant corroborating evidence, including the defendant's statements.

Section 5. <u>Part V of chapter 560, Florida Statutes, consisting of ss. 560.501-560.507, Florida Statutes, is created and entitled "Virtual Currency Kiosk Businesses."</u>

Section 6. Section 560.501, Florida Statutes, is created to read:

560.501 Definitions.—For purposes of this part, the term:

(1) "Blockchain" means a mathematically secured, chronological, decentralized, distributed, and digital ledger or database that consists of records of transactions that cannot be altered retroactively.

(2) "Blockchain analytics" means the process of examining, monitoring, and gathering insights from the data and transaction patterns on a blockchain network. The primary aims of blockchain analytics are to understand and monitor the network's health, track transaction flows, and identify potential security threats, including illicit activity, in order to extract actionable insights.

(3) "Daily transaction limit" means a new customer being limited to no more than $2,000 in transactions per calendar day, or an existing customer being limited to no more than $10,000 in transactions per calendar day, whether through a single transaction or multiple transactions or whether through one or more virtual currency kiosks.

(4) "Existing customer" means a customer who has transacted with a kiosk business on its virtual currency kiosk for 7 or more days.

(5) "New customer" means a customer who has transacted with a kiosk business on its virtual currency kiosk for fewer than 7 days.

(6) "Registrant" means a corporation, limited liability company, limited liability partnership, or foreign entity qualified to do business in this state which offers virtual currency kiosk services and receives notice from the office that the agency has granted an application for registration pursuant to this part.

(7) "Transaction hash" means a unique identifier consisting of a string of characters which provides a verifiable record that a transaction has been confirmed and added to the blockchain.

(8) "Wallet" means hardware or software that enables a customer to store, use, send, receive, and spend virtual currency or store virtual currency private keys or passcodes enabling the same.

Section 7. Effective March 1, 2027, section 560.502, Florida Statutes, is created to read:

560.502 Registration required; exemptions; penalties.—

(1) Except as provided in subsection (2), a virtual currency kiosk business may not operate in this state without first registering, or renewing its registration, in accordance with s. 560.503. The office shall give written notice to each applicant that the office has granted or denied the application for registration.

(2) A money transmitter that is licensed as a money services business pursuant to s. 560.141 and offers virtual

currency kiosk services is exempt from registration as a virtual currency kiosk business but is subject to ss. 560.504, 560.505, 560.506, and 560.507.

(3) An entity, in the course of its business, may not act as an intermediary with the ability to unilaterally execute or indefinitely prevent a virtual currency kiosk transaction, or otherwise meet the definition of a money transmitter as defined in s. 560.103, without being licensed as a money services business pursuant to s. 560.141.

(4) A virtual currency kiosk business registration issued under this part is not transferable or assignable.

Section 8. Section 560.503, Florida Statutes, is created to read:

560.503 Registration applications.—

(1) To apply to be registered as a virtual currency kiosk business under this part, the applicant must submit all of the following information to the office:

(a) A completed registration application on forms prescribed by rule of the commission. The application must include the following information:

1. The legal name, including any fictitious or trade name used by the applicant in the conduct of its business, and the physical and mailing addresses of the applicant.

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

3. The name, social security number, alien identification or taxpayer identification number, business and residence addresses, and employment history for the past 5 years for each control person as defined in s. 560.103.

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

5. The name and mailing address of the registered agent in this state for service of process.

6. The physical address of the location of each virtual currency kiosk through which the applicant proposes to conduct or is conducting business in this state.

7. An attestation that the applicant has developed clearly documented policies, processes, and procedures regarding the use of blockchain analytics to prevent transfers to wallet addresses linked to known criminal activity, including the manner in which such blockchain analytics activity will integrate into its compliance controls, and that the applicant will maintain and comply with such blockchain analytics policies, processes, and procedures.

8. Any other information as required by this chapter or commission rule.

(b) Any information needed to resolve any deficiency found in the application within a time period prescribed by rule.

(2) A virtual currency kiosk business operating in this state on or before January 1, 2027, must submit a registration application to the office within 30 days after that date.

(3) A registrant shall report, on a form prescribed by rule of the commission, any change in the information contained in the initial application form or an amendment thereto within 30 days after the change is effective.

(4) A registrant must renew its registration annually on or before December 31 of the year preceding the expiration date of the registration. To renew such registration, the registrant must submit a renewal application that provides:

(a) The information required in paragraph (1)(a) if there are changes in the application information, or an affidavit signed by the registrant that the information remains the same as the prior year's information.

(b) Upon request by the office, evidence that the registrant has been operating in compliance with ss. 560.504, 560.505, 560.506, and 560.507. Such evidence may be prescribed by rule by the commission and may include, but need not be limited to, all of the following:

1. Current disclosures presented to customers during the transaction process.

2. Current use of blockchain analytics to prevent transfers to wallet addresses linked to known criminal activity.

(5) A registrant that does not renew its registration by

December 31 of the year preceding expiration shall be made inactive for 60 days. A registrant may not conduct business while its registration is inactive.

(6) To renew an inactive registration, a registrant must, within 60 days after the registration becomes inactive, submit all of the following:

(a) The information required in paragraph (1)(a) if there are changes in the application information, or an affidavit signed by the registrant that the information remains the same as the prior year's information.

(b) Evidence that the registrant was operating in compliance with ss. 560.504, 560.505, 560.506, and 560.507. Such evidence may be prescribed by rule by the commission and may include, but need not be limited to, all of the following:

1. Current disclosures presented to customers during the transaction process.

2. Reports that confirm compliance with daily transaction limits.

3. Copies of receipts provided to customers.

4. Records showing refunds provided to customers in required circumstances.

5. Current use of blockchain analytics to prevent transfers to wallet addresses linked to known criminal activity.

Any renewal registration made pursuant to this subsection becomes effective upon the date the office approves the application for registration. The office shall approve the application for renewal registration within a timeframe prescribed by rule.

(7) Except as provided in s. 560.502(2), failure to submit an application to renew a virtual currency kiosk business's registration within 60 days after the registration becomes inactive shall result in the registration becoming expired. If the registration is expired, a new application to register the virtual currency kiosk business pursuant to subsection (1) must be submitted to the office and a certification of registration must be issued by the office before the virtual currency kiosk business may conduct business in this state.

(8) If a control person of a registrant or prospective registrant has engaged in any unlawful business practice, or been convicted or found guilty of, or pled guilty or nolo contendere to, regardless of adjudication, a crime involving dishonest dealing, fraud, acts of moral turpitude, or other acts that reflect an inability to engage lawfully in the business of a registered virtual currency kiosk business, the office may deny the prospective registrant's initial registration application or the registrant's renewal application.

(9) The office shall deny the application of a virtual currency kiosk business that submits a renewal application and fails to provide evidence of compliance upon request pursuant to

paragraph (4)(b) or as required in paragraph (6)(b).

(10) Any false statement made by a virtual currency kiosk business in an application for registration under this section renders the registration void. A void registration may not be construed as creating a defense to any prosecution for violation of this chapter.

Section 9. Section 560.504, Florida Statutes, is created to read:

560.504 Disclosures.—Before a customer initiates a virtual currency kiosk transaction, a virtual currency kiosk business shall ensure that its virtual currency kiosk:

(1) Requires the customer to confirm whether the customer has conducted any transaction at another virtual currency kiosk on the same calendar day and the amount of any such transactions to determine how much, if any, the customer may transact at the virtual currency kiosk before reaching the appropriate daily transaction limit.

(2) Clearly and conspicuously display the following disclosure to the customer on the screen:

WARNING: FRAUD OFTEN STARTS WITH CONTACT FROM A STRANGER. IF YOU HAVE BEEN DIRECTED TO THIS MACHINE BY SOMEONE CLAIMING TO BE A GOVERNMENT AGENT, BILL COLLECTOR, LAW ENFORCEMENT OFFICER, OR ANYONE YOU DO NOT KNOW PERSONALLY, STOP THIS TRANSACTION IMMEDIATELY

AND CONTACT YOUR FINANCIAL ADVISOR OR LOCAL LAW ENFORCEMENT.

Section 10. Section 560.505, Florida Statutes, is created to read:

560.505 Transaction limits.—A virtual currency kiosk business may not permit a new customer to transact more than $2,000 per calendar day, whether through a single transaction or multiple transactions or whether through one or more virtual currency kiosks. A virtual currency kiosk business may not permit an existing customer to transact more than $10,000 per calendar day, whether through a single transaction or multiple transactions or whether through one or more virtual currency kiosks.

Section 11. Section 560.506, Florida Statutes, is created to read:

560.506 Mandatory receipt.—Upon completion of a virtual currency transaction, the virtual currency kiosk business shall provide the customer with a choice of a physical or electronic receipt that includes all of the following:

(1) The name and contact information of the virtual currency kiosk business, including an e-mail address and a toll-free telephone number for such business.

(2) The date, time, amount of the transaction in United States dollars, and type of transaction.

(3) The transaction hash and each wallet used.

(4) The total fee charged for the transaction.

(5) The exchange rate, if applicable.

(6) A statement of the virtual currency kiosk's liability, if any, for nondelivery or delayed delivery of the virtual currency.

(7) The refund policy of the virtual currency kiosk business.

Section 12. Section 560.507, Florida Statutes, is created to read:

560.507 Mandatory refund.—A virtual currency kiosk business must issue a full refund within 72 hours to a customer for the customer's first virtual currency transaction if all of the following conditions are met:

(1) Within 60 days, the customer notifies the virtual currency kiosk business and a law enforcement or governmental agency regarding the fraudulent nature of the transaction.

(2) The customer provides proof of the alleged fraud to the virtual currency kiosk business, such as a police report or a notarized affidavit.

Section 13. Except as otherwise expressly provided in this act, this act shall take effect January 1, 2027.