

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Insurance & Banking
2 Subcommittee

3 Representative Aloupis offered the following:

4

5 **Amendment (with title amendment)**

6 Remove lines 96-144 and insert:
7 to or from this country. The term includes only an intermediary
8 that has the ability to unilaterally execute or indefinitely
9 prevent a transaction.

10 (29) "Payment instrument" means a check, draft, warrant,
11 money order, travelers check, electronic instrument, or other
12 instrument used for the transmission, exchange, or payment of
13 currency ~~money,~~ or monetary value, regardless of whether it is
14 ~~or not~~ negotiable. The term does not include an instrument that
15 is redeemable by the issuer in merchandise or service, a credit
16 card voucher, or a letter of credit.

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17 (35) "Stored value" means currency funds or monetary value
18 represented in digital electronic format, regardless of whether
19 it is or not specially encrypted, and stored or capable of
20 storage on electronic media in such a way as to be retrievable
21 and transferred electronically.

22 (36) "Virtual currency" means a medium of exchange in
23 electronic or digital format that is not currency. The term does
24 not include a medium of exchange in electronic or digital format
25 that is used:

26 (a) Solely within online gaming platforms with no market
27 or application outside such gaming platforms; or

28 (b) Exclusively as part of a consumer affinity or rewards
29 program and can be applied solely as payment for purchases with
30 the issuer or other designated merchants, but cannot be
31 converted into or redeemed for currency, monetary value, or
32 virtual currency.

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

36 560.123 Florida Control of Money Laundering in Money
37 Services Business Act.—

38 (2) The purpose of this section is to require the
39 maintenance of certain records of transactions involving
40 currency, monetary value, or payment instruments, or virtual
41 currency in order to deter the use of a money services business

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42 to conceal proceeds from criminal activity and to ensure the
43 availability of such records for criminal, tax, or regulatory
44 investigations or proceedings.

45 (3) A money services business shall keep a record, as
46 prescribed by the commission, of each financial transaction
47 occurring in this state which it knows to involve currency,
48 monetary value, a ~~or other~~ payment instrument, or virtual
49 currency ~~as prescribed by the commission,~~ having a value greater
50 than \$10,000; to involve the proceeds of specified unlawful
51 activity; or to be designed to evade the reporting requirements
52 of this section or chapter 896. The money services business must
53 maintain appropriate procedures to ensure compliance with this
54 section and chapter 896.

55 (a) Multiple financial transactions shall be treated as a
56 single transaction if the money services business has knowledge
57 that they are made by or on behalf of any one person and result
58 in value ~~cash~~ in or value ~~cash~~ out totaling a value of more than
59 \$10,000 during any day.

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

64 (c) The money services business must file a report with
65 the office of any records required by this subsection, at such
66 time and containing such information as required by rule. The

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67 | timely filing of the report required by 31 U.S.C. s. 5313 with
68 | the appropriate federal agency shall be deemed compliance with
69 | the reporting requirements of this subsection unless the reports
70 | are not regularly and comprehensively transmitted by the federal
71 | agency to the office.

72 | (d) A money services business, or officer, employee, or
73 | agent thereof, that files a report in good faith pursuant to
74 | this section is not liable to any person for loss or damage
75 | caused in whole or in part by the making, filing, or
76 | governmental use of the report, or any information contained
77 | therein.

78 | (4) A money services business must comply with the money
79 | laundering, enforcement, and reporting provisions of s. 655.50
80 | relating to reports of transactions involving currency
81 | transactions and payment instruments, as applicable, and of
82 | chapter 896 concerning offenses relating to financial
83 | transactions.

84 | (8)

85 | (b) A person who willfully violates any provision of this
86 | section, if the violation involves:

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

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91 2. Currency, monetary value, ~~or~~ payment instruments, or
92 virtual currency of a value totaling or exceeding \$20,000 but
93 less than \$100,000 in any 12-month period, commits a felony of
94 the second degree, punishable as provided in s. 775.082, s.
95 775.083, or s. 775.084.

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

100 (c) In addition to the penalties authorized by s. 775.082,
101 s. 775.083, or s. 775.084, a person who has been convicted of,
102 or entered a plea of guilty or nolo contendere, regardless of
103 adjudication, to having violated paragraph (b) may be sentenced
104 to pay a fine of up to the greater of \$250,000 or twice the
105 value of the currency, monetary value, ~~or~~ payment instruments,
106 or virtual currency ~~whichever is greater~~, except that on a
107 second or subsequent conviction for or plea of guilty or nolo
108 contendere, regardless of adjudication, to a violation of
109 paragraph (b), the fine may be up to the greater of \$500,000 or
110 quintuple the value of the currency, monetary value, ~~or~~ payment
111 instruments, or virtual currency ~~whichever is greater~~.

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

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116 Section 4. Subsections (5), (6), and (7) of section
117 560.125, Florida Statutes, are amended to read:

118 560.125 Unlicensed activity; penalties.—

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

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

125 (b) Currency, monetary value, ~~or~~ payment instruments, or
126 virtual currency of a value totaling or exceeding \$20,000 but
127 less than \$100,000 in any 12-month period, commits a felony of
128 the second degree, punishable as provided in s. 775.082, s.
129 775.083, or s. 775.084.

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

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

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141 violation of this section, the fine may be up to the greater of
142 \$500,000 or quintuple the value of the currency, monetary value,
143 ~~or payment instruments, or virtual currency whichever is~~
144 ~~greater.~~

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

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

151 560.204 License required.-

152 (1) Unless exempted, a person may not engage in, or in any
153 manner advertise that they engage in, ~~the selling or issuing of~~
154 ~~payment instruments or in~~ the activity of a payment instrument
155 seller or money transmitter, for compensation, without first
156 obtaining a license under this part. For purposes of this
157 subsection ~~section~~, the term "compensation" includes profit or
158 loss on the exchange of currency, monetary value, or virtual
159 currency.

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

162 560.208 Conduct of business.-In addition to the
163 requirements specified in s. 560.1401, a licensee under this
164 part:

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

169 (6) Shall immediately upon receipt of currency, monetary
170 value, a ~~or~~ payment instrument, or virtual currency provide a
171 confirmation or sequence number to the customer verbally, by
172 paper, or electronically.

173 Section 7. Paragraph (b) of subsection (2) of section
174 560.2085, Florida Statutes, is amended to read:

175 560.2085 Authorized vendors.—A licensee under this part
176 shall:

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

179 (b) Includes contract provisions that require the
180 authorized vendor to:

181 1. Report to the licensee, immediately upon discovery, the
182 theft or loss of currency, monetary value, a payment instrument,
183 or virtual currency received for a transmission or for a payment
184 instrument sold;

185 2. Display a notice to the public, in such form as
186 prescribed by rule, that the vendor is the authorized vendor of
187 the licensee;

188 3. Remit all amounts owed to the licensee for all
189 transmissions accepted and all payment instruments sold in

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190 accordance with the contract between the licensee and the
191 authorized vendor;

192 4. Hold in trust all currency, monetary value, ~~or~~ payment
193 instruments, or virtual currency received for transmissions or
194 for the purchase of payment instruments from the time of receipt
195 by the licensee or authorized vendor until the time the
196 transmission obligation is completed;

197 5. Not commingle the currency, monetary value, payment
198 instruments, or virtual currency ~~money~~ received for
199 transmissions accepted or payment instruments sold on behalf of
200 the licensee with the assets ~~money~~ or property of the authorized
201 vendor, except for making change in the ordinary course of the
202 vendor's business; ~~and~~

203 6. Ensure that the currency, monetary value, payment
204 instruments, or virtual currency received for transmissions
205 accepted or payment instruments sold ~~money~~ is accounted for at
206 the end of the business day;

207 ~~7~~ 6. Consent to examination or investigation by the
208 office;

209 ~~8~~ 7. Adhere to the applicable state and federal laws and
210 rules pertaining to a money services business; and

211 ~~9~~ 8. Provide such other information or disclosure as may
212 be required by rule.

213 Section 8. Subsections (2) and (3) of section 560.210,
214 Florida Statutes, are renumbered as subsections (3) and (4),

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215 respectively, and a new subsection (2) is added to that section,
216 to read:

217 560.210 Permissible investments.—

218 (2) Each money transmitter that receives virtual currency,
219 either directly or through an authorized vendor, for the purpose
220 of transmitting such virtual currency from one person to another
221 location or person must at all times hold virtual currency of
222 the same type and amount owed or obligated to the other location
223 or person. Virtual currency received and held under this
224 subsection is not included in the amount of outstanding money
225 transmissions for purposes of calculating the permissible
226 investments required by subsection (1).

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

230 560.211 Required records.—

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

235 (a) A daily record of payment instruments sold and of
236 currency, monetary value, payment instruments, or virtual
237 currency ~~money~~ transmitted.

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238 (e) Records of outstanding payment instruments and of
239 currency, monetary value, payment instruments, or virtual
240 currency ~~money~~ transmitted.

241 (f) Records of each payment instrument paid and of
242 currency, monetary value, payment instruments, or virtual
243 currency ~~money~~ transmission delivered.

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

246 Section 10. Section 560.212, Florida Statutes, is amended
247 to read:

248 560.212 Financial liability.—A licensee under this part is
249 liable for the payment of all currency, monetary value, payment
250 instruments, or virtual currency ~~money~~ transmitted and payment
251 instruments that it sells, in whatever form and whether directly
252 or through an authorized vendor, as the maker, drawer, or
253 principal thereof, regardless of whether such item is negotiable
254 or nonnegotiable.

255

256 -----

257 **T I T L E A M E N D M E N T**

258 Remove lines 6-12 and insert:

259 definitions; amending s. 560.123, F.S.; revising the
260 purpose of the Florida Control of Money Laundering in
261 Money Services Business Act; revising the duties of
262 money services businesses; amending s. 560.125, F.S.;

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263 revising the violations of money services business
264 activities; amending s. 560.204, F.S.; revising
265 certain prohibited activities without a license;
266 revising the definition of the term "compensation";
267 amending s. 560.208, F.S.; revising requirements for a
268 money transmitter or payment instrument seller to
269 conduct business; amending s. 560.2085, F.S.; revising
270 requirements for a written contract between a money
271 transmitter or payment instrument seller and an
272 authorized vendor; amending s. 560.210, F.S.;
273 providing requirements for a money transmitter that
274 receives virtual currency; excluding virtual currency
275 in the calculation of permissible investments;
276 amending s. 560.211, F.S.; revising recordkeeping
277 requirements for a money transmitter or payment
278 instrument seller; amending s. 560.212, F.S.; revising
279 financial liability requirements for a money
280 transmitter or payment instrument seller; providing an