

1                                   A bill to be entitled  
2           An act relating to money services businesses; amending  
3           s. 559.952, F.S.; revising exceptions for a licensee  
4           during the Financial Technology Sandbox period;  
5           amending s. 560.103, F.S.; revising and providing  
6           definitions; amending s. 560.123, F.S.; revising the  
7           purpose of the Florida Control of Money Laundering in  
8           Money Services Business Act; revising duties of money  
9           services businesses; amending s. 560.125, F.S.;  
10          revising provisions related to violations of money  
11          services business activities; amending s. 560.204,  
12          F.S.; revising provisions related to certain  
13          prohibited activities without a license; revising the  
14          definition of the term "compensation"; amending s.  
15          560.208, F.S.; revising requirements for a money  
16          transmitter or payment instrument seller to conduct  
17          business; amending s. 560.2085, F.S.; revising  
18          requirements for a written contract between a money  
19          transmitter or payment instrument seller and an  
20          authorized vendor; amending s. 560.210, F.S.;  
21          providing requirements for a money transmitter that  
22          receives virtual currency; excluding virtual currency  
23          in the calculation of permissible investments;  
24          amending s. 560.211, F.S.; revising recordkeeping  
25          requirements for a money transmitter or payment

26 | instrument seller; amending s. 560.212, F.S.; revising  
 27 | financial liability requirements for a money  
 28 | transmitter or payment instrument seller; providing an  
 29 | effective date.

30 |

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

32 |

33 | Section 1. Paragraph (a) of subsection (4) of section  
 34 | 559.952, Florida Statutes, is amended to read:

35 | 559.952 Financial Technology Sandbox.—

36 | (4) EXCEPTIONS TO GENERAL LAW AND WAIVERS OF RULE  
 37 | REQUIREMENTS.—

38 | (a) Notwithstanding any other law, upon approval of a  
 39 | Financial Technology Sandbox application, the following  
 40 | provisions and corresponding rule requirements are not  
 41 | applicable to the licensee during the sandbox period:

42 | 1. Section 516.03(1), except for the application fee, the  
 43 | investigation fee, the requirement to provide the social  
 44 | security numbers of control persons, evidence of liquid assets  
 45 | of at least \$25,000, and the office's authority to investigate  
 46 | the applicant's background. The office may prorate the license  
 47 | renewal fee for an extension granted under subsection (7).

48 | 2. Section 516.05(1) and (2), except that the office shall  
 49 | investigate the applicant's background.

50 | 3. Section 560.109, only to the extent that the section

51 requires the office to examine a licensee at least once every 5  
 52 years.

53 4. Section 560.118(2).

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

58 6. Section 560.125(2), only to the extent that the  
 59 subsection would prohibit a licensee from appointing an  
 60 authorized vendor during the sandbox period. Any authorized  
 61 vendor of such a licensee during the sandbox period remains  
 62 liable to the holder or remitter.

63 7. Section 560.128.

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

66 9. Section 560.142(1) and (2), except that the office may  
 67 prorate, but may not entirely eliminate, the license renewal  
 68 fees in s. 560.143 for an extension granted under subsection  
 69 (7).

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

72 11. Section 560.204(1), only to the extent that the  
 73 subsection would prohibit a licensee from engaging in, or  
 74 advertising that it engages in, ~~the selling or issuing of~~  
 75 ~~payment instruments or in the activity of a~~ payment instrument

76 | seller or money transmitter during the sandbox period.

77 | 12. Section 560.205(2).

78 | 13. Section 560.208(2).

79 | 14. Section 560.209, only to the extent that the office  
 80 | may modify, but may not entirely eliminate, the net worth,  
 81 | corporate surety bond, and collateral deposit amounts required  
 82 | under that section. The modified amounts must be in such lower  
 83 | amounts that the office determines to be commensurate with the  
 84 | factors under paragraph (5)(c) and the maximum number of  
 85 | consumers authorized to receive the financial product or service  
 86 | under this section.

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

90 | 560.103 Definitions.—As used in this chapter, the term:

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

98 | (21) "Monetary value" means a medium of exchange, other  
 99 | than virtual currency, regardless of whether it is ~~or not~~  
 100 | redeemable in currency.

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

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

122 (35) "Stored value" means currency funds or monetary value  
123 represented in digital electronic format, regardless of whether  
124 it is ~~or not~~ specially encrypted, and stored or capable of  
125 storage on electronic media in such a way as to be retrievable

126 and transferred electronically.

127 (36) "Virtual currency" means a medium of exchange in  
 128 electronic or digital format that is not currency. The term does  
 129 not include a medium of exchange in electronic or digital format  
 130 that is used:

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

133 (b) Exclusively as part of a consumer affinity or rewards  
 134 program and can be applied solely as payment for purchases with  
 135 the issuer or other designated merchants, but cannot be  
 136 converted into or redeemed for currency, monetary value, or  
 137 virtual currency.

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

141 560.123 Florida Control of Money Laundering in Money  
 142 Services Business Act.—

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

150 (3) A money services business shall keep a record, as

151 prescribed by the commission, of each financial transaction  
152 occurring in this state which it knows to involve currency,  
153 monetary value, a ~~or other~~ payment instrument, or virtual  
154 currency as prescribed by the commission, having a value greater  
155 than \$10,000; to involve the proceeds of specified unlawful  
156 activity; or to be designed to evade the reporting requirements  
157 of this section or chapter 896. The money services business must  
158 maintain appropriate procedures to ensure compliance with this  
159 section and chapter 896.

160 (a) Multiple financial transactions shall be treated as a  
161 single transaction if the money services business has knowledge  
162 that they are made by or on behalf of any one person and result  
163 in value ~~cash~~ in or value ~~cash~~ out totaling a value of more than  
164 \$10,000 during any day.

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

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

176 agency to the office.

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

183 (4) A money services business must comply with the money  
 184 laundering, enforcement, and reporting provisions of s. 655.50  
 185 relating to reports of transactions involving currency  
 186 transactions and payment instruments, as applicable, and of  
 187 chapter 896 concerning offenses relating to financial  
 188 transactions.

189 (8)

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

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

196 2. Currency, monetary value, or ~~payment instruments, or~~  
 197 virtual currency of a value totaling or exceeding \$20,000 but  
 198 less than \$100,000 in any 12-month period, commits a felony of  
 199 the second degree, punishable as provided in s. 775.082, s.  
 200 775.083, or s. 775.084.



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

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

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

221           Section 4. Subsections (5), (6), and (7) of section  
 222 560.125, Florida Statutes, are amended to read:

223           560.125 Unlicensed activity; penalties.—

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

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

230 (b) Currency, monetary value, ~~or~~ payment instruments, or  
 231 virtual currency of a value totaling or exceeding \$20,000 but  
 232 less than \$100,000 in any 12-month period, commits a felony of  
 233 the second degree, punishable as provided in s. 775.082, s.  
 234 775.083, or s. 775.084.

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

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

250 (7) A person who violates this section is also liable for

251 a civil penalty of up to the greater of ~~not more than~~ the value  
252 of the currency, monetary value, or ~~or~~ payment instruments, or  
253 virtual currency involved or \$25,000, ~~whichever is greater.~~

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

256 560.204 License required.—

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

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

267 560.208 Conduct of business.—In addition to the  
268 requirements specified in s. 560.1401, a licensee under this  
269 part:

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

274 (6) Shall immediately upon receipt of currency, monetary  
275 value, a ~~or~~ payment instrument, or virtual currency provide a

276 confirmation or sequence number to the customer verbally, by  
 277 paper, or electronically.

278 Section 7. Paragraph (b) of subsection (2) of section  
 279 560.2085, Florida Statutes, is amended to read:

280 560.2085 Authorized vendors.—A licensee under this part  
 281 shall:

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

284 (b) Includes contract provisions that require the  
 285 authorized vendor to:

286 1. Report to the licensee, immediately upon discovery, the  
 287 theft or loss of currency, monetary value, a payment instrument,  
 288 or virtual currency received for a transmission or for a payment  
 289 instrument sold;

290 2. Display a notice to the public, in such form as  
 291 prescribed by rule, that the vendor is the authorized vendor of  
 292 the licensee;

293 3. Remit all amounts owed to the licensee for all  
 294 transmissions accepted and all payment instruments sold in  
 295 accordance with the contract between the licensee and the  
 296 authorized vendor;

297 4. Hold in trust all currency, monetary value, ~~or~~ payment  
 298 instruments, or virtual currency received for transmissions or  
 299 for the purchase of payment instruments from the time of receipt  
 300 by the licensee or authorized vendor until the time the

301 transmission obligation is completed;

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

308 6. Ensure that the currency, monetary value, payment  
309 instruments, or virtual currency received for transmissions  
310 accepted or payment instruments sold ~~money~~ is accounted for at  
311 the end of the business day;

312 ~~7.6.~~ Consent to examination or investigation by the  
313 office;

314 ~~8.7.~~ Adhere to the applicable state and federal laws and  
315 rules pertaining to a money services business; and

316 ~~9.8.~~ Provide such other information or disclosure as may  
317 be required by rule.

318 Section 8. Subsections (2) and (3) of section 560.210,  
319 Florida Statutes, are renumbered as subsections (3) and (4),  
320 respectively, and a new subsection (2) is added to that section  
321 to read:

322 560.210 Permissible investments.—

323 (2) Each money transmitter that receives virtual currency,  
324 either directly or through an authorized vendor, for the purpose  
325 of transmitting such virtual currency from one person to another

326 location or person must at all times hold virtual currency of  
 327 the same type and amount owed or obligated to the other location  
 328 or person. Virtual currency received and held under this  
 329 subsection is not included in the amount of outstanding money  
 330 transmissions for purposes of calculating the permissible  
 331 investments required by subsection (1).

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

335 560.211 Required records.—

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

340 (a) A daily record of payment instruments sold and of  
 341 currency, monetary value, payment instruments, or virtual  
 342 currency ~~money~~ transmitted.

343 (e) Records of outstanding payment instruments and of  
 344 currency, monetary value, payment instruments, or virtual  
 345 currency ~~money~~ transmitted.

346 (f) Records of each payment instrument paid and of  
 347 currency, monetary value, payment instruments, or virtual  
 348 currency ~~money~~ transmission delivered.

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

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351 Section 10. Section 560.212, Florida Statutes, is amended  
352 to read:

353 560.212 Financial liability.—A licensee under this part is  
354 liable for the payment of all currency, monetary value, payment  
355 instruments, or virtual currency ~~money~~ transmitted and payment  
356 instruments that it sells, in whatever form and whether directly  
357 or through an authorized vendor, as the maker, drawer, or  
358 principal thereof, regardless of whether such item is negotiable  
359 or nonnegotiable.

360 Section 11. This act shall take effect January 1, 2022.