

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~~ 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, until the transmission
327 obligation is completed, hold virtual currency of the same type
328 and amount owed or obligated to the other location or person.
329 Virtual currency received and held under this subsection is not
330 included in the amount of outstanding money transmissions for
331 purposes of calculating the permissible investments required by
332 subsection (1).

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

336 560.211 Required records.—

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

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

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

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

350 (j) Any additional records, as prescribed by rule, related

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351 | to virtual currency.

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

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

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