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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/01/2022	.	
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The Committee on Commerce and Tourism (Boyd) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 560.103, Florida Statutes, is amended to
read:

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

(1) "Affiliated party" means a control ~~director, officer,~~
~~responsible~~ person, employee, or foreign affiliate of a money
services business, ~~or a person who has a controlling interest in~~



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11 ~~a money services business as provided in s. 560.127.~~

12 (2) "Appropriate regulator" means a state, federal, or
13 foreign agency that has been granted authority to enforce state,
14 federal, or foreign laws related to a money services business or
15 deferred presentment provider.

16 (3) "Authorized vendor" means a person designated by a
17 money services business licensed under part II of this chapter
18 to act on behalf of the licensee at locations in this state
19 pursuant to a written contract with the licensee.

20 (4) "Branch office" means the physical location, other than
21 the principal place of business, of a money services business
22 operated by a licensee under this chapter.

23 (5) "Cashing" means providing currency for payment
24 instruments except for travelers checks.

25 (6) "Check casher" means a person who sells currency in
26 exchange for payment instruments received, except travelers
27 checks.

28 (7) "Commission" means the Financial Services Commission.

29 (8) "Compliance officer" means the individual in charge of
30 overseeing, managing, and ensuring that a money services
31 business is in compliance with all state and federal laws and
32 rules relating to money services businesses, as applicable,
33 including all money laundering laws and rules.

34 (9) "Conductor" means a natural person who presents himself
35 or herself to a licensee for purposes of cashing a payment
36 instrument.

37 (10) "Control person" means:

38 (a) A person that possesses the power, directly or
39 indirectly, to direct the management or policies of a money



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40 services business, whether through ownership of securities, by
41 contract, or through other means, and regardless of whether such
42 person has an official title or receives a salary or other
43 compensation. The following persons are each presumed to be a
44 control person:

45 1. The president, chief executive officer, chief financial
46 officer, chief operations officer, chief legal officer, and
47 compliance officer.

48 2. A person holding any of the officer positions named in
49 the money services business's governing documents.

50 3. A person holding any position named by the money
51 services business's liability insurance coverage for directors
52 and officers, if the business has such coverage.

53 4. A director of the money services business's board of
54 directors.

55 (b) For a corporation that is not publicly traded, all
56 shareholders that, directly or indirectly, own 25 percent or
57 more or that have the power to vote 25 percent or more of a
58 class of voting securities.

59 (c) For a partnership, all general partners and those
60 limited or special partners that have contributed 25 percent or
61 more or that have the right to receive upon dissolution 25
62 percent or more of the partnership's capital.

63 (d) For a trust, all trustees.

64 (e) For a limited liability company, all managers and those
65 members that have contributed 25 percent or more or that have
66 the right to receive upon dissolution 25 percent or more of the
67 limited liability company's capital.

68 (11)-(10) "Corporate payment instrument" means a payment



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69 instrument on which the payee named on the instrument's face is
70 other than a natural person.

71 (12)~~(11)~~ "Currency" means the coin and paper money of the
72 United States or of any other country which is designated as
73 legal tender and which circulates and is customarily used and
74 accepted as a medium of exchange in the country of issuance.
75 Currency includes United States silver certificates, United
76 States notes, and Federal Reserve notes. Currency also includes
77 official foreign bank notes that are customarily used and
78 accepted as a medium of exchange in a foreign country.

79 (13)~~(12)~~ "Deferred presentment provider" means a person who
80 is licensed under part II or part III of this chapter and has
81 filed a declaration of intent with the office to engage in
82 deferred presentment transactions as provided under part IV of
83 this chapter.

84 (14)~~(13)~~ "Department" means the Department of Financial
85 Services.

86 (15)~~(14)~~ "Electronic instrument" means a card, tangible
87 object, or other form of electronic payment for the transmission
88 or payment of money or the exchange of monetary value, including
89 a stored value card or device that contains a microprocessor
90 chip, magnetic stripe, or other means for storing information;
91 that is prefunded; and for which the value is decremented upon
92 each use.

93 (16)~~(15)~~ "Financial audit report" means a report prepared
94 in connection with a financial audit that is conducted in
95 accordance with generally accepted auditing standards prescribed
96 by the American Institute of Certified Public Accountants by a
97 certified public accountant licensed to do business in the



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98 United States, and which must include:

99 (a) Financial statements, including notes related to the
100 financial statements and required supplementary information,
101 prepared in conformity with accounting principles generally
102 accepted in the United States. The notes must, at a minimum,
103 include detailed disclosures regarding receivables that are
104 greater than 90 days, if the total amount of such receivables
105 represents more than 2 percent of the licensee's total assets.

106 (b) An expression of opinion regarding whether the
107 financial statements are presented in conformity with accounting
108 principles generally accepted in the United States, or an
109 assertion to the effect that such an opinion cannot be expressed
110 and the reasons.

111 ~~(17)~~~~(16)~~ "Foreign affiliate" means a person located outside
112 this state who has been designated by a licensee to make
113 payments on behalf of the licensee to persons who reside outside
114 this state. The term also includes a person located outside of
115 this state for whom the licensee has been designated to make
116 payments in this state.

117 ~~(18)~~~~(17)~~ "Foreign currency exchanger" means a person who
118 exchanges, for compensation, currency of the United States or a
119 foreign government to currency of another government.

120 ~~(19)~~~~(18)~~ "Fraudulent identification paraphernalia" means
121 all equipment, products, or materials of any kind that are used,
122 intended for use, or designed for use in the misrepresentation
123 of a customer's identity. The term includes, but is not limited
124 to:

125 (a) A signature stamp, thumbprint stamp, or other tool or
126 device used to forge a customer's personal identification



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127 information.

128 (b) An original of any type of personal identification
129 listed in s. 560.310(2)(b) which is blank, stolen, or unlawfully
130 issued.

131 (c) A blank, forged, fictitious, or counterfeit instrument
132 in the similitude of any type of personal identification listed
133 in s. 560.310(2)(b) which would in context lead a reasonably
134 prudent person to believe that such instrument is an authentic
135 original of such personal identification.

136 (d) Counterfeit, fictitious, or fabricated information in
137 the similitude of a customer's personal identification
138 information that, although not authentic, would in context lead
139 a reasonably prudent person to credit its authenticity.

140 ~~(20)~~~~(19)~~ "Licensee" means a person licensed under this
141 chapter.

142 ~~(21)~~~~(20)~~ "Location" means a branch office, mobile location,
143 or location of an authorized vendor whose business activity is
144 regulated under this chapter.

145 ~~(22)~~~~(21)~~ "Monetary value" means a medium of exchange,
146 whether or not redeemable in currency.

147 ~~(23)~~~~(22)~~ "Money services business" means any person located
148 in or doing business in this state, from this state, or into
149 this state from locations outside this state or country who acts
150 as a payment instrument seller, foreign currency exchanger,
151 check casher, or money transmitter.

152 ~~(24)~~~~(23)~~ "Money transmitter" means a corporation, limited
153 liability company, limited liability partnership, or foreign
154 entity qualified to do business in this state which receives
155 currency, monetary value, or payment instruments for the purpose



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156 of transmitting the same by any means, including transmission by
157 wire, facsimile, electronic transfer, courier, the Internet, or
158 through bill payment services or other businesses that
159 facilitate such transfer within this country, or to or from this
160 country.

161 ~~(25)~~ ~~(24)~~ "Net worth" means assets minus liabilities,
162 determined in accordance with United States generally accepted
163 accounting principles.

164 ~~(26)~~ ~~(25)~~ "Office" means the Office of Financial Regulation
165 of the commission.

166 ~~(26)~~ "Officer" means an individual, other than a director,
167 who participates in, or has authority to participate in, the
168 major policymaking functions of a money services business,
169 regardless of whether the individual has an official title or
170 receives a salary or other compensation.

171 (27) "Outstanding money transmission" means a money
172 transmission to a designated recipient or a refund to a sender
173 that has not been completed.

174 (28) "Outstanding payment instrument" means an unpaid
175 payment instrument whose sale has been reported to a licensee.

176 (29) "Payment instrument" means a check, draft, warrant,
177 money order, travelers check, electronic instrument, or other
178 instrument, payment of money, or monetary value whether or not
179 negotiable. The term does not include an instrument that is
180 redeemable by the issuer in merchandise or service, a credit
181 card voucher, or a letter of credit.

182 (30) "Payment instrument seller" means a corporation,
183 limited liability company, limited liability partnership, or
184 foreign entity qualified to do business in this state which



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185 sells a payment instrument.

186 (31) "Person" means an individual, partnership,
187 association, trust, corporation, limited liability company, or
188 other group, however organized, but does not include a public
189 agency or instrumentality thereof.

190 (32) "Personal identification information" means a
191 customer's name that, alone or together with any of the
192 following information, may be used to identify that specific
193 customer:

194 (a) Customer's signature.

195 (b) Photograph, digital image, or other likeness of the
196 customer.

197 (c) Unique biometric data, such as the customer's
198 thumbprint or fingerprint, voice print, retina or iris image, or
199 other unique physical representation of the customer.

200 ~~(33) "Responsible person" means an individual who is~~
201 ~~employed by or affiliated with a money services business and who~~
202 ~~has principal active management authority over the business~~
203 ~~decisions, actions, and activities of the money services~~
204 ~~business in this state.~~

205 (33) "Publicly traded" means a stock is currently traded on
206 a national securities exchange registered with the Securities
207 and Exchange Commission, or traded on an exchange in a country
208 other than the United States regulated by a regulator equivalent
209 to the Securities and Exchange Commission and the disclosure and
210 reporting requirements of such regulator are substantially
211 similar to those of the Securities and Exchange Commission.

212 (34) "Sells" means to sell, issue, provide, or deliver.

213 (35) "Stored value" means funds or monetary value



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214 represented in digital electronic format, whether or not
215 specially encrypted, and stored or capable of storage on
216 electronic media in such a way as to be retrievable and
217 transferred electronically.

218 Section 2. Subsection (2) of section 560.118, Florida
219 Statutes, is amended to read:

220 560.118 Reports.—

221 (2) Each licensee must submit quarterly reports to the
222 office in a format and include information as specified by rule.
223 The rule may require the report to contain a declaration by a
224 control ~~an officer, or any other responsible~~ person authorized
225 to make such declaration, that the report is true and correct to
226 the best of her or his knowledge and belief.

227 Section 3. Paragraph (d) of subsection (3) of section
228 560.123, Florida Statutes, is amended to read:

229 560.123 Florida Control of Money Laundering in Money
230 Services Business Act.—

231 (3) A money services business shall keep a record of each
232 financial transaction occurring in this state which it knows to
233 involve currency or other payment instrument, as prescribed by
234 the commission, having a value greater than \$10,000; to involve
235 the proceeds of specified unlawful activity; or to be designed
236 to evade the reporting requirements of this section or chapter
237 896. The money services business must maintain appropriate
238 procedures to ensure compliance with this section and chapter
239 896.

240 (d) A money services business, or control person ~~officer,~~
241 employee, or agent thereof, that files a report in good faith
242 pursuant to this section is not liable to any person for loss or



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243 damage caused in whole or in part by the making, filing, or
244 governmental use of the report, or any information contained
245 therein.

246 Section 4. Subsection (3) of section 560.126, Florida
247 Statutes, is amended to read:

248 560.126 Required notice by licensee.—

249 (3) Each licensee must report any change in the control
250 ~~partners, officers, members, joint venturers, directors,~~
251 ~~controlling shareholders, or responsible~~ persons of the licensee
252 or changes in the form of business organization by written
253 amendment in such form and at such time as specified by rule.

254 ~~(a) If any person, directly or indirectly or acting by or~~
255 ~~through one or more persons, proposes to purchase or acquire a~~
256 ~~controlling interest in a licensee, such person or group must~~
257 ~~submit an application for licensure as a money services business~~
258 ~~or deferred presentment provider before such purchase or~~
259 ~~acquisition at such time and in such form as prescribed by rule.~~
260 ~~As used in this subsection, the term "controlling interest"~~
261 ~~means the same as described in s. 560.127.~~

262 ~~(b) The addition of a control person partner, officer,~~
263 ~~member, joint venturer, director, controlling shareholder, or~~
264 ~~responsible person of the applicant who does not have a~~
265 ~~controlling interest and who has not previously complied with~~
266 the applicable provisions of ss. 560.1401 and 560.141 is subject
267 to such provisions. If the office determines that the licensee
268 does not continue to meet the licensure requirements, the office
269 may bring an administrative action in accordance with s. 560.114
270 to enforce the provisions of this chapter.

271 ~~(c) The commission shall adopt rules providing for the~~



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272 ~~waiver of the license application required by this subsection if~~
273 ~~the person or group of persons proposing to purchase or acquire~~
274 ~~a controlling interest in a licensee has previously complied~~
275 ~~with the applicable provisions of ss. 560.1401 and 560.141 under~~
276 ~~the same legal entity or is currently licensed under this~~
277 ~~chapter.~~

278 Section 5. Section 560.127, Florida Statutes, is repealed.

279 Section 6. Paragraphs (a) and (c) of subsection (1) of
280 section 560.141, Florida Statutes, are amended to read:

281 560.141 License application.—

282 (1) To apply for a license as a money services business
283 under this chapter, the applicant must submit:

284 (a) An application to the office on forms prescribed by
285 rule which includes the following information:

286 1. The legal name and address of the applicant, including
287 any fictitious or trade names used by the applicant in the
288 conduct of its business.

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

291 3. The name, social security number, alien identification
292 or taxpayer identification number, business and residence
293 addresses, and employment history for the past 5 years for each
294 ~~control person officer, director, responsible person, the~~
295 ~~compliance officer, each controlling shareholder, and any other~~
296 ~~person who has a controlling interest in the money services~~
297 ~~business as provided in s. 560.127.~~

298 4. A description of the organizational structure of the
299 applicant, including the identity of any parent or subsidiary of
300 the applicant, and the disclosure of whether any parent or



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301 subsidiary is publicly traded.

302 5. The applicant's history of operations in other states if
303 applicable and a description of the money services business or
304 deferred presentment provider activities proposed to be
305 conducted by the applicant in this state.

306 6. If the applicant or its parent is a publicly traded
307 company, copies of all filings made by the applicant with the
308 United States Securities and Exchange Commission, or with a
309 similar regulator in a country other than the United States,
310 within the preceding year.

311 7. The location at which the applicant proposes to
312 establish its principal place of business and any other
313 location, including branch offices and authorized vendors
314 operating in this state. For each branch office and each
315 location of an authorized vendor, the applicant shall include
316 the nonrefundable fee required by s. 560.143.

317 8. The name and address of the clearing financial
318 institution or financial institutions through which the
319 applicant's payment instruments are drawn or through which the
320 payment instruments are payable.

321 9. The history of the applicant's material litigation,
322 criminal convictions, pleas of nolo contendere, and cases of
323 adjudication withheld.

324 10. The history of material litigation, arrests, criminal
325 convictions, pleas of nolo contendere, and cases of adjudication
326 withheld for each control ~~executive officer, director,~~
327 ~~controlling shareholder, and responsible person.~~

328 11. The name of the registered agent in this state for
329 service of process unless the applicant is a sole proprietor.



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330 12. Any other information specified in this chapter or by
331 rule.

332 (c) Fingerprints for each person listed in subparagraph
333 (a)3. for live-scan processing in accordance with rules adopted
334 by the commission.

335 1. The fingerprints may be submitted through a third-party
336 vendor authorized by the Department of Law Enforcement to
337 provide live-scan fingerprinting.

338 2. The Department of Law Enforcement must conduct the state
339 criminal history background check, and a federal criminal
340 history background check must be conducted through the Federal
341 Bureau of Investigation.

342 3. All fingerprints submitted to the Department of Law
343 Enforcement must be submitted electronically and entered into
344 the statewide automated fingerprint identification system
345 established in s. 943.05(2)(b) and available for use in
346 accordance with s. 943.05(2)(g) and (h). The office shall pay an
347 annual fee to the Department of Law Enforcement to participate
348 in the system and shall inform the Department of Law Enforcement
349 of any person whose fingerprints no longer must be retained.

350 4. The costs of fingerprint processing, including the cost
351 of retaining the fingerprints, shall be borne by the person
352 subject to the background check.

353 5. The office shall review the results of the state and
354 federal criminal history background checks and determine whether
355 the applicant meets licensure requirements.

356 6. For purposes of this paragraph, fingerprints are not
357 required to be submitted if the applicant is a publicly traded
358 corporation or is exempted from this chapter under s.



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359 ~~560.104(1). The term "publicly traded" means a stock is~~
360 ~~currently traded on a national securities exchange registered~~
361 ~~with the federal Securities and Exchange Commission or traded on~~
362 ~~an exchange in a country other than the United States regulated~~
363 ~~by a regulator equivalent to the Securities and Exchange~~
364 ~~Commission and the disclosure and reporting requirements of such~~
365 ~~regulator are substantially similar to those of the commission.~~

366 ~~7. Licensees initially approved before October 1, 2013, who~~
367 ~~are seeking renewal must submit fingerprints for each person~~
368 ~~listed in subparagraph (a)3. for live-scan processing pursuant~~
369 ~~to this paragraph. Such fingerprints must be submitted before~~
370 ~~renewing a license that is scheduled to expire between April 30,~~
371 ~~2014, and December 31, 2015.~~

372 Section 7. Subsection (1) of section 560.143, Florida
373 Statutes, is amended to read:

374 560.143 Fees.-

375 (1) LICENSE APPLICATION FEES.-The applicable non-refundable
376 fees must accompany an application for licensure:

377 (a) Part II.....\$375.

378 (b) Part III.....\$188.

379 (c) Per branch office.....\$38.

380 (d) For each location of an authorized
381 vendor.....\$38.

382 (e) Declaration as a deferred presentment
383 provider.....\$1,000.

384 (f) Fingerprint retention fees as prescribed by rule.

385 ~~(g) License application fees for branch offices and~~
386 ~~authorized vendors are limited to \$20,000 when such fees are~~
387 ~~assessed as a result of a change in controlling interest as~~



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388 ~~defined in s. 560.127.~~

389 Section 8. For the purpose of incorporating the amendments
390 made by this act to sections 560.118 and 560.141, Florida
391 Statutes, in references thereto, paragraph (a) of subsection (4)
392 of section 559.952, Florida Statutes, is reenacted to read:

393 559.952 Financial Technology Sandbox.—

394 (4) EXCEPTIONS TO GENERAL LAW AND WAIVERS OF RULE
395 REQUIREMENTS.—

396 (a) Notwithstanding any other law, upon approval of a
397 Financial Technology Sandbox application, the following
398 provisions and corresponding rule requirements are not
399 applicable to the licensee during the sandbox period:

400 1. Section 516.03(1), except for the application fee, the
401 investigation fee, the requirement to provide the social
402 security numbers of control persons, evidence of liquid assets
403 of at least \$25,000, and the office's authority to investigate
404 the applicant's background. The office may prorate the license
405 renewal fee for an extension granted under subsection (7).

406 2. Section 516.05(1) and (2), except that the office shall
407 investigate the applicant's background.

408 3. Section 560.109, only to the extent that the section
409 requires the office to examine a licensee at least once every 5
410 years.

411 4. Section 560.118(2).

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

416 6. Section 560.125(2), only to the extent that the



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417 subsection would prohibit a licensee from appointing an
418 authorized vendor during the sandbox period. Any authorized
419 vendor of such a licensee during the sandbox period remains
420 liable to the holder or remitter.

421 7. Section 560.128.

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

424 9. Section 560.142(1) and (2), except that the office may
425 prorate, but may not entirely eliminate, the license renewal
426 fees in s. 560.143 for an extension granted under subsection
427 (7).

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

430 11. Section 560.204(1), only to the extent that the
431 subsection would prohibit a licensee from engaging in, or
432 advertising that it engages in, the selling or issuing of
433 payment instruments or in the activity of a money transmitter
434 during the sandbox period.

435 12. Section 560.205(2).

436 13. Section 560.208(2).

437 14. Section 560.209, only to the extent that the office may
438 modify, but may not entirely eliminate, the net worth, corporate
439 surety bond, and collateral deposit amounts required under that
440 section. The modified amounts must be in such lower amounts that
441 the office determines to be commensurate with the factors under
442 paragraph (5)(c) and the maximum number of consumers authorized
443 to receive the financial product or service under this section.

444 Section 9. For the purpose of incorporating the amendment
445 made by this act to section 560.141, Florida Statutes, in a



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446 reference thereto, paragraph (c) of subsection (2) of section
447 560.114, Florida Statutes, is reenacted to read:

448 560.114 Disciplinary actions; penalties.—

449 (2) Pursuant to s. 120.60(6), the office may summarily
450 suspend the license of a money services business if the office
451 finds that a licensee poses an immediate, serious danger to the
452 public health, safety, and welfare. A proceeding in which the
453 office seeks the issuance of a final order for the summary
454 suspension of a licensee shall be conducted by the commissioner
455 of the office, or his or her designee, who shall issue such
456 order. The following acts are deemed to constitute an immediate
457 and serious danger to the public health, safety, and welfare,
458 and the office may immediately suspend the license of a money
459 services business if:

460 (c) A natural person required to be listed on the license
461 application for a money services business pursuant to s.
462 560.141(1)(a)3. is criminally charged with, or arrested for, a
463 crime described in paragraph (1)(o), paragraph (1)(p), or
464 paragraph(1)(q).

465 Section 10. This act shall take effect October 1, 2022.

466
467 ===== T I T L E A M E N D M E N T =====

468 And the title is amended as follows:

469 Delete everything before the enacting clause
470 and insert:

471 A bill to be entitled
472 An act relating to money services businesses; amending
473 s. 560.103, F.S.; defining the terms "control person"
474 and "publicly traded"; revising and deleting



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475 definitions; amending s. 560.118, F.S.; providing that
476 a rule may require certain reports to the Office of
477 Financial Regulation to contain declarations by
478 control persons, rather than officers or other
479 responsible persons; amending s. 560.123, F.S.;
480 providing that control persons, rather than officers,
481 are not liable for loss or damages under certain
482 circumstances; amending s. 560.126, F.S.; requiring
483 licensees to report changes in control persons, rather
484 than certain other entities or persons; deleting a
485 requirement for certain persons to submit a licensure
486 application under certain circumstances; deleting the
487 definition of the term "controlling interest";
488 providing that the addition of a control person,
489 rather than certain other entities or persons, is
490 subject to certain requirements; deleting a
491 requirement for the Financial Services Commission to
492 adopt rules; repealing s. 560.127, F.S., relating to
493 control of a money services business; amending s.
494 560.141, F.S.; revising requirements for applications
495 for licensure as a money services business; deleting
496 the definition of the term "publicly traded"; deleting
497 obsolete language; amending s. 560.143, F.S.; removing
498 a limitation on specified license application fees
499 under certain circumstances; reenacting s.
500 559.952(4)(a), F.S., relating to the Financial
501 Technology Sandbox, to incorporate the amendments made
502 to ss. 560.118 and 560.141, F.S., in references
503 thereto; reenacting s. 560.114(2)(c), F.S., relating



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504 to disciplinary actions and penalties, to incorporate
505 the amendment made to s. 560.141, F.S., in a reference
506 thereto; providing an effective date.