

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; revising provisions related to
10 violations of money services business activities and
11 penalties for such violations; amending s. 560.125,
12 F.S.; revising provisions related to violations of
13 money services business activities and penalties for
14 such violations; amending s. 560.204, F.S.; revising
15 provisions related to certain prohibited activities
16 without a license; revising the definition of the term
17 "compensation"; amending s. 560.208, F.S.; revising
18 requirements for a money transmitter or payment
19 instrument seller to conduct business; amending s.
20 560.2085, F.S.; revising requirements for a written
21 contract between a money transmitter or payment
22 instrument seller and an authorized vendor; amending
23 s. 560.210, F.S.; providing requirements for a money
24 transmitter that receives virtual currency; excluding
25 virtual currency in the calculation of permissible

26 investments under certain circumstances; amending s.
 27 560.211, F.S.; revising recordkeeping requirements for
 28 a money transmitter or payment instrument seller;
 29 amending s. 560.212, F.S.; revising financial
 30 liability requirements for a money transmitter or
 31 payment instrument seller; providing an effective
 32 date.

33

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

35

36 Section 1. Paragraph (a) of subsection (4) of section
 37 559.952, Florida Statutes, is amended to read:

38 559.952 Financial Technology Sandbox.—

39 (4) EXCEPTIONS TO GENERAL LAW AND WAIVERS OF RULE
 40 REQUIREMENTS.—

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

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

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

53 3. Section 560.109, only to the extent that the section
54 requires the office to examine a licensee at least once every 5
55 years.

56 4. Section 560.118(2).

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

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

66 7. Section 560.128.

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

69 9. Section 560.142(1) and (2), except that the office may
70 prorate, but may not entirely eliminate, the license renewal
71 fees in s. 560.143 for an extension granted under subsection
72 (7).

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

75 11. Section 560.204(1), only to the extent that the

76 subsection would prohibit a licensee from engaging in, or
 77 advertising that it engages in, ~~the selling or issuing of~~
 78 ~~payment instruments or in~~ the activity of a payment instrument
 79 seller or money transmitter during the sandbox period.

80 12. Section 560.205(2).

81 13. Section 560.208(2).

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

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

93 560.103 Definitions.—As used in this chapter, the term:

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

101 (21) "Monetary value" means a medium of exchange, other
 102 than virtual currency, regardless of whether it is ~~or not~~
 103 redeemable in currency.

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

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

125 (35) "Stored value" means currency ~~funds~~ or monetary value

126 represented in digital electronic format, regardless of whether
127 it is ~~or not~~ specially encrypted, and stored or capable of
128 storage on electronic media in such a way as to be retrievable
129 and transferred electronically.

130 (36) "Virtual currency" means a medium of exchange in
131 electronic or digital format that is not currency. The term does
132 not include a medium of exchange in electronic or digital format
133 that is:

134 (a) Issued by or on behalf of a publisher and used solely
135 within an online game, game platform, or family of games sold by
136 the same publisher or offered on the same game platform; or

137 (b) Used exclusively as part of a consumer affinity or
138 rewards program and can be applied solely as payment for
139 purchases with the issuer or other designated merchants but
140 cannot be converted into or redeemed for currency or another
141 medium of exchange.

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

145 560.123 Florida Control of Money Laundering in Money
146 Services Business Act.—

147 (2) The purpose of this section is to require the
148 maintenance of certain records of transactions involving
149 currency, monetary value, ~~or~~ payment instruments, or virtual
150 currency in order to deter the use of a money services business

151 to conceal proceeds from criminal activity and to ensure the
 152 availability of such records for criminal, tax, or regulatory
 153 investigations or proceedings.

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

164 (a) Multiple financial transactions shall be treated as a
 165 single transaction if the money services business has knowledge
 166 that they are made by or on behalf of any one person and result
 167 in value ~~each~~ in or value ~~each~~ out totaling a value of more than
 168 \$10,000 during any day.

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

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

176 | timely filing of the report required by 31 U.S.C. s. 5313 with
177 | the appropriate federal agency shall be deemed compliance with
178 | the reporting requirements of this subsection unless the reports
179 | are not regularly and comprehensively transmitted by the federal
180 | agency to the office.

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

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

193 | (8)

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

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

200 | 2. Currency, monetary value, or ~~payment instruments, or~~

201 virtual currency of a value totaling or exceeding \$20,000 but
202 less than \$100,000 in any 12-month period, commits a felony of
203 the second degree, punishable as provided in s. 775.082, s.
204 775.083, or s. 775.084.

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

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

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

225 Section 4. Subsections (5), (6), and (7) of section

226 | 560.125, Florida Statutes, are amended to read:

227 | 560.125 Unlicensed activity; penalties.—

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

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

234 | (b) Currency, monetary value, ~~or~~ payment instruments, or
235 | virtual currency of a value totaling or exceeding \$20,000 but
236 | less than \$100,000 in any 12-month period, commits a felony of
237 | the second degree, punishable as provided in s. 775.082, s.
238 | 775.083, or s. 775.084.

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

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

251 \$500,000 or quintuple the value of the currency, monetary value,
252 ~~or~~ payment instruments, or virtual currency ~~whichever is~~
253 ~~greater.~~

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

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

260 560.204 License required.-

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

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

271 560.208 Conduct of business.-In addition to the
272 requirements specified in s. 560.1401, a licensee under this
273 part:

274 (5) Shall, in the normal course of business, ensure that
275 currency, monetary value, payment instruments, or virtual

276 currency ~~money~~ transmitted is available to the designated
 277 recipient within 10 business days after receipt.

278 (6) Shall immediately upon receipt of currency, monetary
 279 value, a ~~or~~ payment instrument, or virtual currency provide a
 280 confirmation or sequence number to the customer verbally, by
 281 paper, or electronically.

282 Section 7. Paragraph (b) of subsection (2) of section
 283 560.2085, Florida Statutes, is amended to read:

284 560.2085 Authorized vendors.—A licensee under this part
 285 shall:

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

288 (b) Includes contract provisions that require the
 289 authorized vendor to:

290 1. Report to the licensee, immediately upon discovery, the
 291 theft or loss of currency, monetary value, a payment instrument,
 292 or virtual currency received for a transmission or for a payment
 293 instrument sold;

294 2. Display a notice to the public, in such form as
 295 prescribed by rule, that the vendor is the authorized vendor of
 296 the licensee;

297 3. Remit all amounts owed to the licensee for all
 298 transmissions accepted and all payment instruments sold in
 299 accordance with the contract between the licensee and the
 300 authorized vendor;

301 4. Hold in trust all currency, monetary value, or ~~or~~ payment
 302 instruments, or virtual currency received for transmissions or
 303 for the purchase of payment instruments from the time of receipt
 304 by the licensee or authorized vendor until the time the
 305 transmission obligation is completed;

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

312 6. Ensure that the currency, monetary value, payment
 313 instruments, or virtual currency received for transmissions
 314 accepted or payment instruments sold ~~money~~ is accounted for at
 315 the end of the business day;

316 ~~7.6.~~ Consent to examination or investigation by the
 317 office;

318 ~~8.7.~~ Adhere to the applicable state and federal laws and
 319 rules pertaining to a money services business; and

320 ~~9.8.~~ Provide such other information or disclosure as may
 321 be required by rule.

322 Section 8. Subsections (2) and (3) of section 560.210,
 323 Florida Statutes, are renumbered as subsections (3) and (4),
 324 respectively, and a new subsection (2) is added to that section
 325 to read:

326 560.210 Permissible investments.—

327 (2) Each money transmitter that receives virtual currency,
 328 either directly or through an authorized vendor, for the purpose
 329 of transmitting such virtual currency from one person to another
 330 location or person must at all times, until the transmission
 331 obligation is completed, hold virtual currency of the same type
 332 and amount owed or obligated to the other location or person.
 333 Virtual currency received and held under this subsection is not
 334 included in the amount of outstanding money transmissions for
 335 purposes of calculating the permissible investments required by
 336 subsection (1).

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

340 560.211 Required records.—

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

345 (a) A daily record of payment instruments sold and of
 346 currency, monetary value, payment instruments, or virtual
 347 currency ~~money~~ transmitted.

348 (e) Records of outstanding payment instruments and of
 349 currency, monetary value, payment instruments, or virtual
 350 currency ~~money~~ transmitted.

351 (f) Records of each payment instrument paid and of
 352 currency, monetary value, payment instruments, or virtual
 353 currency transmitted ~~money transmission delivered~~.

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

356 Section 10. Section 560.212, Florida Statutes, is amended
 357 to read:

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

365 Section 11. This act shall take effect January 1, 2023.