The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL:	SB 1588
INTRODUCER:	Senator Gruters
SUBJECT:	Legal Tender
DATE:	February 11, 2026
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Moody	Knudson	BI	**Favorable**
2.			AEG	
3.			RC	

I. Summary:

SB 1588 amends CS/HB 999 (2025) adopted in chapter 2025-100, Laws of Florida, an act relating to legal tender (the "Act"), that recognizes gold and silver as legal tender, expands regulation of financial institutions and money services businesses to regulate gold and silver legal tender, and establishes a regulatory scheme for custodians of gold and silver coin. The Act requires the Department of Financial Services (DFS) and the Office of Financial Regulation (OFR) to adopt rules to implement the Act, and repeals the Act on June 30, 2026, unless reviewed and saved from repeal through reenactment by the Legislature.

SB 1588 makes the following changes:

- Saves from repeal ch. 2025-100, Laws of Florida.
- Clarifies purity requirements for "gold coin" and "silver coin."
- Prohibits certain marks on gold or silver coin that indicate a face value, country's name, or governmental issuance.
- Authorizes certain artistic or decorative designs on the gold or silver coin.
- Limits custodial services to "transactional gold or silver" that is "intended to be capable of electronic transfer."
- Removes "custodian" from the services offered by a "money transmitter."
- Limits the money services businesses requirements relating to gold or silver coin to transmissions.
- Requires a licensee to verify insurance coverage in certain circumstances.
- Requires a money transmitter that transmits gold coin or silver coin, rather than a custodian, to be examined at least annually.
- Repeals s. 560.214, F.S., regulating custodian services, and provisions cross-referencing such section.
- Removes the OFR's obligation to conduct an examination of the custodian's vault before issuing a license.

- Removes additional licensing requirements for custodians and requires evidence as prescribed by rule for a licensee that transmits gold or silver coin.
- Removes gold and silver from services offered by a "foreign currency exchanger."

The bill has an indeterminate fiscal impact on the state revenue and expenditures. See Section V., Fiscal Impact.

The bill is effective upon becoming a law.

II. Present Situation:

Legal Tender and Specie under Federal and State Law

Article I, Section 8, Clause 5 of the U.S. Constitution grants Congress the exclusive power to coin money and regulate its value.[1] Under 31 U.S.C. § 5103, only United States coins and currency (including Federal Reserve notes) are recognized as legal tender[2] for the payment of debts, public charges, taxes, and dues.[3] Foreign gold or silver coins are not legal tender for debts under federal law.[4] Federal law also provides:

> "Whoever, except as authorized by law, makes or utters or passes, or attempts to utter or pass, any coins of gold or silver or other metal, or alloys of metals, intended for use as current money, whether in the resemblance of coins of the United States or of foreign countries, or of original design, shall be fined under [Title 18] or imprisoned not more than five years, or both."[5]

While prohibited from coining money, under Article I, Section 10, Clause 1 of the U.S. Constitution, states are expressly authorized to "make gold and silver coin a tender in payment of debts."[6] This provision authorizes states to recognize gold and silver coin as legal tender for the payment of debts but prohibits states from creating or issuing their own currencies or recognizing other forms of money as tender.[7] The U.S. Supreme Court (Court) held that debts

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[1] U.S. Const. art. 1. s. 8. Cl. 5.
[2] The term "legal tender" means "the money (bills and coins) approved in a country for the payment of debts, the purchase of goods, and other exchanges for value." Garner, B. *Definition of Legal Tender*, Black's Law Dictionary (12th ed. 2024), LEGAL TENDER | Secondary Sources | FE | Westlaw Edge (last visited Feb. 8, 2026).
[3] 31 U.S.C. s. 5103. The Board of Governors of the Federal Reserve System explains that "[t]his statute means that all U.S. money as identified above is a valid and legal offer of payment for debts when tendered to a creditor." Board of Governors of the Federal Reserve System, *Is It Legal for a Business in the United States to Refuse Cash as a Form of Payment?*,(July 21, 2020) *available at*: The Fed - Is it legal for a business in the United States to refuse cash as a form of payment? (last visited Feb. 8, 2026). A business or person may generally refuse legal tender if they do so clearly in advance. *Id.* However, if a debt already exists and does not specify the type of legal tender that must be paid, there may be consequences for refusing to accept legal tender which include, but are not limited to, the debt may be discharged. *See Spurgeon v. Smitha*, 17 N.E. 105, 107 (1888) (holding "where the money is actually produced, and an unconditional offer is made to pay it at once to the creditor, and he refuses to accept it, and asks the debtor to retain it, the sureties are discharged.").
[4] 31 U.S.C. s. 5103.
[5] 18 U.S.C. s. 486.
[6] U.S. Const. art. 1. s. 10. Cl. 1.
[7] *Id*.

are an obligation to pay money under contract, including judgments and recognizances, but does not include taxes which are "…impost levied by authority of government on its citizens…and it is not founded on contract or agreement."[8] However, the Court also held that a state legislature has the authority to "…require the collection of taxes in kind, that is to say, by the delivery to the proper officers of a certain proportion of products, or in gold and silver bullion, or in gold and silver coin…"[9]

Tax Treatment of Specie and Bullion

Federal Taxation

At the federal level, gold and silver coins and bullion are classified as "collectibles" under 26 U.S.C. § 408(m), and gains from their sale are subject to a maximum long-term capital gains tax rate of 28 percent.[10] The Internal Revenue Code defines "collectible" to include any work of art, rug or antique, metal or gem, stamp or coin, alcoholic beverage, or any other tangible personal property specified by the Secretary of Treasury.[11] Certain U.S.-minted gold and silver coins are explicitly exempt from being classified as "collectibles."[12]

Florida Taxation

Florida imposes a tax on the sale, use, consumption, or storage of any coin when such coin:

- Is not legal tender;
- If legal tender, is sold, exchanged, or traded at a rate in excess of its face value; or
- Is sold, exchanged, or traded at a rate based on its precious metal content.[13]

The tax rate is 6 percent of sale, use, consumption, or storage price. All of the following are exempt from this 6 percent tax:

- Coin or currency that is legal tender of the U.S.[14]
- Coins or currency of two nations which are in general circulation and are exchanged solely for use as legal tender and at an exchange rate based on the relative value of each as a medium of exchange.[15]
- Transactions in which the taxable amount represented by the sale exceeds $500, the entire amount represented by the sale of such coins or currency is exempt from the tax.[16]

Florida Law

Last year, the Legislature passed HB 999 (2025), an act relating to legal tender, that was adopted into law in ch. 2025-100, Laws of Florida, (the "Act") which has a delayed implementation date

[8] *Lane County v. Oregon*, 74 U.S. 71, 72 (1868); *Hager v. Reclamation Dist. No. 108*, 111 U.S. 701, 706-707 (1884).
[9] *Lane County v. Oregon*, 74 U.S. at 77.
[10] Internal Revenue Service, *Topic no. 49, Capital gains and losses* (January 5, 2026), https://www.irs.gov/taxtopics/tc409 (last visited Feb. 8, 2026).
[11] 26 U.S.C. § 408(m)(2)(A)–(D).
[12] 26 U.S.C. § 408(m)(3)(A).
[13] Section 212.05(1)(j)1., F.S.
[14] Section 212.05(1)(j)2., F.S.
[15] Section 212.05(1)(j)3., F.S.
[16] Section 212.05(1)(j)4., F.S. (providing that the dealer must maintain proper documentation to identify that portion of the transaction that is exempt).

of July 1, 2026.[17] The laws recognize gold coin[18] and silver coin[19] as legal tender[20] for the payment of debts[21] and contain the following provisions:

- Gold and silver coin are defined as the solid, pure form of gold or silver in various physical forms.[22]
- The coin must comply with required, discretionary, and prohibited content.[23]
- The use of gold or silver coin for payment is optional.[24]
- Exempts gold and silver coin recognized as legal tender from sales tax.[25]
- Governmental entities may recognize such coin as legal tender for payment of taxes, charges, or dues, and may tender such coin for the payment of debts.[26]

Any governmental entity choosing to accept or tender gold and silver coin may only do so only electronically[27] and must contract with a qualified public depository that can act as a custodian of gold and silver coin.[28]

The Act also established a framework to regulate money services businesses, including custodians[29] who safekeep and store such gold and silver coin, and financial institutions that offer products and services in gold or silver.[30] The regulation of these entities include:

[17] Chapter 2025-100 s. 19, L.O.F.
[18] Section 215.986(1)(c), F.S., defines "gold coin" as a precious metal with the chemical element of atomic number 79 in solid form, in the shape of rounds, bars, ingots, or bullion coins, which is valued for its metal content and stamped or imprinted with its weight and purity and which solid form of chemical element atomic number 79 consists of at least 99.5 percent purity. The term does not include any goods as defined in s. 672.105(1), such as jewelry, other items of utility, such as picture frames, or collectables.
[19] Section 215.986(1)(f), F.S., defines "silver coin" as a precious metal with the chemical element of atomic number 47 in solid form, in the shape of rounds, bars, ingots, or bullion coins, which is valued for its metal content and is stamped or imprinted with its weight and purity and which solid form of chemical element atomic number 47 consists of at least 99.9 percent purity. The term does not mean any goods as defined in s. 672.105(1), F.S., such a jewelry, other items of utility, such as picture frames, or collectables.
[20] Section 215.986(1)(e), F.S., defines "legal tender" as a medium of exchange recognized by this state pursuant to s. 10, Art. I, of the United States Constitution as a valid and legal offer of payment for debts when tendered to a creditor that agrees to receive such medium of exchange.
[21] Section 215.986(2), F.S.
[22] Section 215.986(1)(c) and (f), F.S.
[23] Section 215.986(2)(b), F.S.
[24] Section 215.986(2)(e), F.S.
[25] Section 212.05(1)(j)2., F.S.
[26] Section 215.986(3), F.S.
[27] *Id.*
[28] Section 215.986(3)(b), F.S.
[29] Section 560.103(13), F.S., defines "custodian of gold coin or silver coin" or "custodian" as any person or entity providing secure vault facilities to one or more persons for the safekeeping and storage of gold coin or silver coin, the ownership of which is or may be transferred electronically as defined in s. 215.986(1), F.S. The term includes any person who holds gold coin or silver coin for more than 10 days. The term does not include a person who holds gold coin or silver coin for personal use as legal tender.
[30] *See* ss. 560.155, 560.214, and 655.97, F.S.

- Custodians of gold and silver coin (vault facilities) must be licensed as money transmitters[31] and meet additional requirements regarding privately insuring deposits, security, recordkeeping, maintaining separate ledger accounts, and other consumer protections.[32]
- Money services businesses that effectuate transactions involving gold or silver coin must meet additional requirements regarding privately insuring deposits, maintaining separate accounts, contracting with a licensed custodian, recordkeeping, and providing consumer disclosures.[33]
- Financial institutions are not required to accept deposits of gold and silver coin and do not incur liability for refusing to offer services related to gold and silver coin. A financial institution that does offer such services must comply with the requirements of a custodian or contract with a licensed custodian and meet additional regulatory requirements that are similar to the requirements for money services businesses.[34]

The Act requires the Department of Financial Services (DFS) and the OFR to adopt rules to implement the act.[35] The Act will be repealed on June 30, 2026, unless reviewed and saved from repeal through reenactment by the Legislature after ratification of the implementing rules adopted by the DFS and the OFR.[36]

Other States' Treatment of Specie and Bullion

Several states have adopted laws to recognize gold and silver as legal tender or to remove various tax barriers to facilitate their use in commerce. These laws vary in scope and effect, ranging from simple tax exemptions to the establishment of state-run bullion depositories.

- Alabama recently passed legislation that recognizes any refined gold or silver bullion, specie, or coin that has been stamped, marked, or imprinted with its weight or purity as legal tender.[37]
- Arkansas law defines specie, in part, as "coin having gold or silver content" and provides that specie and legal tender consists of specie coin issued by the United States Government or other specie that an Arkansas court rules to be within the state's authority to make legal tender but does not explicitly provide that gold and silver coin are legal tender.[38]
- Arizona has removed state capital gains taxes on sales of precious metals. Like Wyoming, Arizona's approach focuses on tax treatment rather than establishing state-operated depositories or payment systems.[39] For purposes of reducing gross income with any net loss

[31] Section 560.205(2), F.S., provides additional licensing requirements for custodians to include evidence of: 1. Insurance against loss for all gold coin or silver coin held in its custody; 2. Custody of the exact quantity and type of asset for all of its customers' gold coin or silver coin held in its physical custody; and 3. Depository accreditation from an entity approved by the OFR; and a statement of a business plan providing for the safe and sound operation of custodial services pertaining to the storage, security, insurance, auditing, administration, authorized access, transacting, and transfer of gold coin or silver coin.
[32] Section 560.214, F.S.
[33] Section 560.155, F.S.
[34] Section 655.97, F.S.
[35] Chapter 2025-100 s. 17, L.O.F.
[36] Chapter 2025-100 s. 18, L.O.F.
[37] AL SB 130 (2025), *available at* https://alison.legislature.state.al.us/files/pdf/SearchableInstruments/2025RS/SB130-int.pdf (last visited April 17, 2025).
[38] AR Code s. 4-56-106.
[39] Ariz. Rev. Stat. § 43-1021. *See also Bullion Feasibility Study: An Exploratory Review of Key Policy Considerations for Implementing Gold and Silver Bullion as Legal Tender in the State of Florida*, prepared for the Florida Department of

from the exchange of legal tender, Arizona has defined legal tender to include specie which means coins having precious metal content.[40]

- Colorado recognizes gold and silver issued by the U.S. government as legal tender for the payment of all debts contracted on or after April 5, 1893, between citizens of the state.[41]
- Idaho recently passed legislation that provides gold and silver coin and specie minted domestically are legal tender.[42]
- Louisiana recently declared gold or silver coin, specie, or bullion issued by any state or the United States government as legal tender.[43]
- Missouri codified the "Constitutional Money Act" that requires electronic specie currency to be accepted as legal tender for the payment of all public debts and authorizes specie legal tender and electronic specie currency to be accepted as payment for all private debts.[44]
- Oklahoma law provides that gold and silver coin issued by the United State government are legal tender.[45]
- Texas has established a state-operated bullion depository, known as the Texas Bullion Depository, to securely store precious metals for individuals, businesses, and governmental entities. The depository provides secure storage and the ability for account holders to deposit and withdraw physical bullion. Texas recently adopted legislation to recognize gold and silver as legal tender for payment of debts but the laws are effective in phases during 2026 and 2027.[46]
- Utah was the first state to recognize U.S.-minted gold and silver coins as legal tender through its Legal Tender Act of 2011. Utah law also provides a tax exemption for capital gains derived from the sale or exchange of gold and silver coins that are recognized as legal tender. In addition, Utah permits private firms to operate accounts backed by physical, precious metals, which allows individuals to conduct transactions denominated in gold and silver.[47] Utah recently legislation that authorizes the state treasurer to issue a competitive procurement for a precious metals-backed electronic payment platform that would allow state vendors to elect to be paid in gold and silver.[48]

Financial Services by Guidehouse Inc., p. 102 (February 28, 2025) (on file with the Senate Committee on Banking and Insurance).

[40] AZ Rev. Stat. s. 43.1021.

[41] CO Rev. Stat. s. 11-61-101.

[42] Idaho HB 177 (2025), *available at* https://legislature.idaho.gov/sessioninfo/2025/legislation/h0177/ (last visited April 17, 2025).

[43] LA Rev. Stat. s. 6:341.

[44] MO Rev. Stat. s. 408.010 (providing that "electronic specie currency" is a representation of actual gold and silver, specie, and bullion held in an account, which may be transferred by electronic instruction. Such representation shall reflect the exact unit of physical specie or gold and silver bullion in the account in its fractional troy ounce measurement as provided in this section).

[45] 62 OK Stat. s. 4500.

[46] Tex. Gov't Code § 2116; S.B. 483 (2015); H.B. 1056 (2025). *See also Bullion Feasibility Study: An Exploratory Review of Key Policy Considerations for Implementing Gold and Silver Bullion as Legal Tender in the State of Florida*, prepared for the Florida Department of Financial Services by Guidehouse Inc., p. 116 (February 28, 2025) (on file with the Senate Committee on Banking and Insurance).

[47] Utah Code §§ 59-1-1501 et seq.; H.B. 317 (2011). *See also Bullion Feasibility Study: An Exploratory Review of Key Policy Considerations for Implementing Gold and Silver Bullion as Legal Tender in the State of Florida*, prepared for the Florida Department of Financial Services by Guidehouse Inc., p. 122 (February 28, 2025) (on file with the Senate Committee on Banking and Insurance).

[48] Utah HB 306 (2025), *available at* https://le.utah.gov/~2025/bills/static/HB0306.html (last visited April 17, 2025).

- Wyoming enacted legislation in 2018 declaring gold and silver legal tender and exempting the sale of these metals from state sales and use taxes. Wyoming law also prohibits the treatment of specie as taxable tangible personal property, effectively removing several barriers to the private holding and use of gold and silver for commerce.[49]

Other states, such as Kansas and Indiana, have adopted various forms of tax exemptions related to the sale or exchange of gold and silver bullion, though these laws do not necessarily recognize precious metals as legal tender or create infrastructure to support their use as a medium of exchange.[50] Some states have legislation pending that would recognize gold and silver as legal tender, such as Tennessee,[51] South Carolina,[52] and West Virginia.[53]

While these states have taken steps to encourage the use of gold and silver by removing tax barriers and recognizing their status as lawful money in specific contexts, no state currently operates a fully integrated, government-supported electronic payment system backed by physical precious metals that are recognized for payment of all state taxes, fees, or other obligations. Most existing laws focus on facilitating private holding and exchange of gold and silver, and on removing disincentives such as sales and capital gains taxes, rather than creating comprehensive alternative currency systems.[54]

Chief Financial Officer

Florida law provides that the Chief Financial Officer (CFO) must serve as the state's chief fiscal officer and, amongst other things, is responsible for keeping all state funds.[55] The CFO is tasked with examining, auditing, adjusting, and settling all accounts of any person who may receive moneys of, or owes money to, the state.[56] Florida Statutes grant the CFO several powers to carry out these duties, such as the discretion on how to invest state funds within certain limitations,[57] authority to determine the frequency of certain state employee salary payments,[58] and requirement to report disbursements made.[59]

Qualified Public Depositories

Unless a specific exemption applies, state and local governments must deposit public funds in a bank or savings association that has been designated as a qualified public depository (QPD)

[49] Wyo. Stat. §§ 34-29-101 to 34-29-103; SF111 (2018). *See also Bullion Feasibility Study: An Exploratory Review of Key Policy Considerations for Implementing Gold and Silver Bullion as Legal Tender in the State of Florida*, prepared for the Florida Department of Financial Services by Guidehouse Inc., p. 128 (February 28, 2025) (on file with the Senate Committee on Banking and Insurance) (hereinafter cited as "2025 Bullion Feasibility Study").
[50] *Id.*
[51] TN SB 1813 (2025-2026).
[52] SC H 5115 (2025-2026).
[53] WV SB 413 (2026).
[54] 2025 Bullion Feasibility Study at 14, 20, 22-23.
[55] Fla. Const. art. IV s. 4(c); Section 17.001, F.S.
[56] Section 17.04, F.S.
[57] *See* s. 17.57, F.S.; s. 17.61, F.S.
[58] Section 17.28, F.S.
[59] Section 17.11, F.S.

under the Florida Security for Public Deposits Act.[60] As of December 2025, Florida had 128 authorized QPDs.[61]

To be designated as a QPD by the CFO, a bank, credit union, savings bank, or savings association must:

- Have authority to accept deposits because it has been chartered and regulated by the state or federal government;
- Have its principal place of business in Florida, or a branch office in Florida;
- Have deposit insurance pursuant to the Federal Deposit Insurance Act[62] or the National Credit Union Share Insurance Fund;
- Have procedures and practices for accurate identification, classification, reporting, and collateralization of public deposits;
- Meet all the requirements of ch. 280, F.S., relating to security for public deposits; and
- Refrain from engaging in the unsafe and unsound practice of discriminating against a person in providing services.[63]

QPDs must secure public deposits with a pledge of eligible collateral, to protect the deposit against losses that could occur in the event of insolvency or default.[64] The amount of collateral that is required is based on statutory guidelines and the QPD's overall financial condition.[65]

Public deposits include, but are not limited to, time deposit accounts, demand deposit accounts, and nonnegotiable certificates of deposits; they do not include moneys in deposit notes, securities, mutual funds, and similar investments.[66]

A bank or savings association must guarantee public depositors against losses caused by the default or insolvency of other QPDs.[67] Any shortfall that is not covered by the maximum federal deposit insurance of $250,000, the CFO must demand payment under letters of credit or the sale of pledged or deposited collateral by the defaulting depository. The CFO may assess QPDs for the total loss if the demand for payment or sale cannot be accomplished within 7 days.[68]

[60] Sections 280.01 and 280.03(1)(b), F.S. Certain public deposits, including those that are fully collateralized under other laws and moneys contributions to the state retirement system that are held in the System Trust Fund, are exempt pursuant to s. 280.03(3), F.S.
[61] Florida Department of Financial Services, Division of the Treasury, *Currently Designated Qualified Public Depositories*, (Dec. 2025), Public Deposits - Smartsheet.com (last visited Feb. 8, 2026).
[62] 12 U.S.C. ss. 1811 et. seq.
[63] Section 280.02(26), F.S.
[64] Sections 280.04 and 280.041(6), F.S.
[65] Section 280.04, F.S., and Rule 69C-2.024, F.A.C.
[66] Section 280.02(23), F.S.
[67] Section 280.07, F.S.
[68] Section 280.08, F.S.

Financial Institutions

Dual Oversight of Depository Institutions

An institution must have a federal or state charter to accept deposits. Banks are chartered and regulated as national banks by the Office of the Comptroller of the Currency within the U.S. Department of the Treasury or as state banks by a state regulator.[69]

The Florida Financial Institutions Codes apply to all state-authorized or state-chartered financial banks, trust companies, credit unions and related entities.[70] The Office of Financial Regulation (OFR) licenses and regulates 196 financial entities, including 57 state-chartered banks.[71] There are at least 25 federally chartered banks operating in Florida.[72]

Due to federal preemptions, a state's regulatory powers in relation to federally chartered institutions is limited. However, the state may exercise powers within their exceptions to exclusive federal visitorial authority. Such exceptions are those recognized by federal law and courts of law or created by the U.S. Congress.[73]

Once a financial institution obtains a charter, one of the regulator's primary tasks is to ensure solvency, which is achieved by conducting financial exams of its licensed entities. Financial institutions also need approval from their regulator to make changes in their upper management, merge with another company, pay dividends to shareholders, engage in material transactions with subsidiaries and affiliates, or make significant changes to their business operations.[74]

Banks chartered by the OFR must become ~~a~~ member of the Federal Reserve or obtain insurance from the Federal Deposit Insurance Corporation.[75] Credit Unions chartered by the OFR must insure their accounts by becoming a member of the National Credit Union Administration.[76] Thus, state-chartered banks and credit unions are subject to a dual-regulatory system.

The OFR must examine the condition of each state-chartered financial institution at least every 18 months, and may conduct more frequent examinations as needed, based on risks associated with a licensee, such as prior examination results or significant operational changes.[77] When a state-chartered financial institution also has a federal regulator, the OFR may accept an

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[69] Congressional Research Service, *Introduction to Financial Services: Banking*, p. 1 (April 1, 2025) https://crsreports.congress.gov/product/pdf/IF/IF10035 (last visited Feb. 8, 2026).
[70] Section 655.005(1)(k), F.S., states that the Financial Institutions Codes includes: Ch. 655, financial institutions generally; Ch. 657, credit unions; Ch. 658, banks and trust companies; Ch. 660, trust business; Ch. 662, family trust companies; Ch. 663, international banking; Ch. 665, relating to associations; and Ch. 667, savings banks.
[71] The OFR, *Fast Facts* (2025 ed.), https://flofr.gov/docs/default-source/documents/fast-facts.pdf (last visited Feb. 8, 2026) (hereinafter cited as "2025 OFR Fast Facts").
[72] The Office of the Comptroller of Currency, U.S. Department of Treasury, *National Banks Active As of 1/31/2026*, https://www.occ.gov/topics/charters-and-licensing/financial-institution-lists/national-by-name.pdf (Feb. 8, 2026).
[73] 12 C.F.R. § 7.4000 (2011).
[74] For a detailed discussion of the regulatory framework, *see* Congressional Research Service, *Who Regulates Whom? An Overview of the U.S. Financial Regulatory Framework* (October 13, 2023), https://www.congress.gov/crs-product/R44918 (last visited Feb. 8, 2026). *See also* ss. 655.037, 655.0385, 655.0386, 655.03855, and 655.412, F.S.
[75] Sections 658.22 and 658.38, F.S.
[76] Sections 657.005, 657.008, and 657.033, F.S.
[77] Section 655.045(1), F.S.

examination performed by the federal regulator or the regulators may conduct a joint examination.[78]

Financial institutions that become insolvent are liquidated by their primary regulator.[79] Financial institutions must also comply with the Florida Control of Money Laundering and Terrorist Financing in Financial Institutions Act (Act).[80] Such Act requires, amongst other things, for a financial institution to designate and retain a Bank Secrecy Act and Anti-Money Laundering (BSA/AML) compliance officer[81,82] and keep a record of certain financial transactions which involves monetary instruments greater than $10,000 which the financial institution believes is suspicious activity.[83] "Monetary instrument" is defined as:

> "Coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, money orders, stored value cards, prepaid cards, investment securities or negotiable instruments in bearer form or otherwise in such form that title thereto passes upon delivery, or similar devices."[84]

Authority of the OFR

The OFR may impose administrative sanctions on financial institutions subject to the Florida Financial Institutions Codes, such as engaging in an "unsafe or unsound practice."[85] Possible penalties include: issuance of a cease and desist order,[86] removal of an institution-affiliated party,[87] administrative fines,[88] and a court-ordered injunction to restrain conduct that violates a formal enforcement action.[89] When imposing a sanction or requiring a remedy, the OFR must consider "the appropriateness of the penalty with respect to the size of the financial resources and good faith of the person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require."[90]

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[78] Section 655.045(1)(a), F.S.
[79] Sections 657.063, 657.064, 658.83, and 660.48, F.S.
[80] Section 655.50, F.S.
[81] Section 655.50(3)(a), F.S., defines "BSA/AML compliance officer" as the financial institution's officer responsible for the development and implementation of the financial institution's policies and procedures for complying with the requirements of this section relating to anti-money laundering (AML), and the requirements of the Bank Secrecy Act of 1970 (BSA), Pub. L. No. 91-508, as amended; the USA Patriot Act of 2001, Pub. L. No. 107-56, as amended, and federal state rules and regulations adopted thereunder; and 31 C.F.R. parts 500-598, relating to the regulations of the Office of Foreign Assets Control (OFAC) of the United States Department of Treasury.
[82] Section 655.50(4), F.S.
[83] Section 655.50(5), F.S.
[84] Section 655.50(3)(e), F.S.
[85] Section 655.005(1)(y), F.S., defines "unsafe or unsound practice" means any practice or conduct found by the office to be contrary to generally accepted standards applicable to a financial institution, or a violation of any prior agreement in writing or order of a state or federal regulatory agency, which practice, conduct, or violation creates the likelihood of loss, insolvency, or dissipation of assets or otherwise prejudices the interest of the financial institution or its depositors or members. In making this determination, the office must consider the size and condition of the financial institution, the gravity of the violation, and the prior conduct of the person or institution involved.
[86] Section 655.033, F.S.
[87] Section 655.037, F.S.
[88] Section 655.041, F.S.
[89] Section 655.034, F.S.
[90] Section 655.031(1), F.S.

The OFR may impose monetary fines if a licensee violates a provision of the financial institutions codes or associated rules, an order of the office, or a written agreement with the office.[91] In general, administrative fines may not exceed $2,500 per day for each violation.[92] Larger fines are allowed in certain circumstances.[93] Criminal violations – like embezzlement and fraud – may be prosecuted under the penal code.[94]

The OFR has authority to monitor state-chartered banks, to ensure compliance with state and federal laws, and may enforce state consumer protection laws on federally chartered banks operating within their boundaries so long as the state law is not pre-empted by federal law.[95] Federal pre-emption permits federally chartered banks and savings associations to operate under a uniform set of rules when they operate across state lines.[96]

Money Services Businesses

The OFR also has regulatory authority over money services businesses[97] (MSBs) that assist consumers in transacting instruments,[98] transmitting money,[99] cashing checks,[100] and exchanging foreign currency.[101] Examples include check cashers like The Check Cashing Store,[102] money transmitters like PayPal,[103] and exchangers like Florida Currency Exchange.[104] Money services businesses also include "payday lenders" who offer short-term, high-interest loans that are due on the consumer's next pay day.

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[91] Section 655.041, F.S.
[92] Section 655.041(2), F.S.
[93] *See* Section 655.041(2), F.S.
[94] Section 655.0322, F.S.
[95] 12 U.S.C. 25b.
[96] U.S. Department of the Treasury, Office of the Comptroller of the Currency (OCC), *OCC Chief Counsel's Interpretation: 12 U.S.S. § 25b* (Dec. 18, 2020), https://www.occ.gov/news-issuances/news-releases/2020/nr-occ-2020-176a.pdf (last visited Feb. 8, 2026).
[97] Section 560.103(22), F.S., defines "money services businesses" as any person located in or doing business in this state, from this state, or into this state from locations outside this state or country who acts as a payment instrument seller, foreign currency exchanger, check casher, or money transmitter.
[98] Section 560.103(29), F.S., defines "payment instrument" as a check, draft, warrant, money order, travelers check, electronic instrument, or other instrument used for the transmission, exchange, or payment of currency or monetary value, regardless of whether it is negotiable. The term does not include an instrument that is redeemable by the issuer in merchandise or service, a credit card voucher, or a letter of credit.
[99] Section 560.105, F.S. Section 560.103(23), F.S., defines "money transmitter" as a corporation, limited liability corporation, limited liability partnership, or foreign entity qualified to do business in this state which receives currency, monetary value, a payment instrument, or virtual currency for the purpose of acting as an intermediary to transmit currency, monetary value, a payment instrument, or virtual currency from one person to another location or person by any means, including transmission by wire, facsimile, electronic transfer, courier, the Internet, or through bill payment services or other businesses that facilitate such transfer within this country, or to or from this country.
[100] Section 560.103(6), F.S., defines "check casher" as a person who sells currency in exchange for payment instruments received, except travelers checks.
[101] Section 560.103(17), F.S., defines "foreign currency exchanger" as a person who exchanges, for compensation, currency of the United States or a foreign government to currency of another government.
[102] The Check Cashing Store, *Home*, https://www.thecheckcashingstore.com/home (last visited Feb. 8, 2026).
[103] PayPal, *Home*, https://www.paypal.com/us/digital-wallet (last visited Feb. 8, 2026).
[104] Florida and Texas Currency Exchange, *Home*, https://flcurrencyexchange.com/ (last visited Feb. 8, 2026).

Licensing of Money Services Businesses

MSBs are regulated under two license categories created pursuant to ch. 560, F.S. The first category, money transmitters and persons selling or issuing payment instruments, is regulated under part II of ch. 560, F.S. The second category, check cashers and foreign currency exchangers, is regulated under part III of ch. 560, F.S.

To be licensed under ch. 560, F.S., a money services business applicant must:

- Demonstrate to the OFR the character and general fitness necessary to command the confidence of the public and warrant the belief that the MSB or deferred presentment provider shall be operated lawfully and fairly;
- Be legally authorized to do business in Florida;
- Be registered as a MSB with the Financial Crimes Enforcement Network, if applicable;[105]
- Have an anti-money laundering program in compliance with federal law;[106] and
- Provide the OFR with all the information required under ch. 560, F.S., and related rules.[107]

To apply as a money services business a person must submit:

- An application to the OFR for an MSB license that must include, on a form prescribed by rule, specified information and documents, such as:
  - The legal name and address of the applicant;
  - The date of the applicant's formation and the state where the applicant was formed;
  - The name, specified identification number, business and residence addresses, and employment history for the past five years for each control person;
  - A description of the organizational structure of the applicant;
  - A description of the money services business activities the applicant proposes to conduct;
  - The location at which the applicant proposes to establish its principal place of business and any other location.[108]
- A nonrefundable application fee.[109,110]
- Fingerprints for live-scan processing in accordance with rules adopted by the Financial Services Commission (Commission), for each control person.[111]
- A copy of the applicant's written anti-money laundering program.[112,113]
- Within the time allotted by rule, any information needed to resolve any deficiencies found in the application.[114]

Licenses issued to MSBs cannot be for more than two years,[115] after which, the money services business must reapply for licensure. Once licensed, an MSB is required to report any change in

[105] *See* 31 C.F.R. s. 1022.380.
[106] *See* 31 C.F.R. s. 1022.210.
[107] Section 560.1401, F.S.
[108] Section 560.141(1)(a), F.S.
[109] Section 560.143, F.S.
[110] Section 560.141(1)(b), F.S.
[111] Section 560.141(1)(c), F.S.
[112] Supra note 68.
[113] Section 560.141(1)(d), F.S.
[114] Section 560.141(1)(e), F.S.
[115] Section 560.141(2), F.S.

control persons.[116] A change of control application must be accompanied by the payment of an initial licensing fee[117] and a fee per branch or authorized vendor,[118] up to a maximum of $20,000.[119]

Administrative sanctions for money services businesses may include issuance of a Cease and Desist Order, removal of an Institution-Affiliated Party, suspension or revocation of a license, an injunction, or a fine of at least $1,000 but not more than $10,000 for each violation.[120] Money laundering may be prosecuted under state or federal law.[121]

Money Transmitters

A person is prohibited from engaging in money transmitter activity for compensation without first obtaining a license.[122] Money transmitters are subject to additional licensing requirements, if applicable, including:

- A sample authorized vendor[123] contract.[124]
- Documents demonstrating that the net worth and bonding requirements have been fulfilled.
- A copy of the applicant's financial audit for the most recent fiscal year.[125]

A licensed money transmitter is authorized to conduct its business at one or more locations within Florida through branches or by means of authorized vendors, and may charge a different price for a money transmitter service based on the mode of transmission provided a customer is not charged more for service that is paid by credit card. A money transmitter is required to:

- Place assets that are a customer's property in a segregated account in a federally insured financial institution and maintain separate accounts for operating capital and the clearing of customer funds.
- Ensure currency or monetary value is available to the recipient within 10 business days after receipt.
- Provide a confirmation or sequence number to the customer upon receipt of currency or monetary value. [126]

Licensed money transmitters are required to have a net worth of at least $100,000 or more if the licensee operates more than one location. Such licensee must obtain an annual financial audit report that has to be submitted to the OFR within a specified time. Obtaining a license is

[116] Section 560.126(3), F.S.
[117] Fees are determined by whether the MSB is licensed under Part II or Part III of Chapter 560. Initial licensing fees under Part II licenses require a $375 license application fee per s. 560.143(1)(a), F.S. Part III licenses require a $188 license application fee per s. 560.143(b), F.S.
[118] Section 560.143(1)(c) and (d), F.S., provides that both the per branch fee and the authorized vendor fee are $38.
[119] Section 560.143(1)(g), F.S.
[120] Sections 560.114 and 560.113, F.S.
[121] Sections 560.111 and 560.123, F.S
[122] Section 560.204, F.S.
[123] Section 560.103(3), F.S., defines "authorized vendor" as a person designated by a money services business licensed under part II of ch. 560, F.S., to act on behalf of the licensee at locations in Florida pursuant to a written contract with the licensee.
[124] Section 560.203, F.S. (providing any authorized vendors of a licensee acting within the scope of authority conferred by the licensee are exempt from licensure but remain subject to the provisions of ch. 560, F.S.).
[125] Section 560.205, F.S.
[126] Section 560.208, F.S.

contingent on the applicant providing proof to the OFR of a corporate surety bond that may not be less than $50,000 or exceed $2 million.[127] A licensed money transmitter must possess permissible investments with an aggregate market value of at least the aggregate face amount of all outstanding money transmissions and payment instruments issued or sold by the licensee or an authorized vendor.[128] Money transmitters must also comply with record retention requirements.[129]

The OFR reports that there was a total of 314 money transmitters licensed by the OFR as of January 2026.[130]

III. Effect of Proposed Changes:

SB 1588 modifies ch. 2025-100, Laws of Florida, that was adopted during the 2025 Regular Session to recognize gold and silver as legal tender.

Section 1 saves ch. 2025-100, Laws of Florida, from repeal by repealing the sunset clause that expires on June 30, 2026, unless the act is reenacted.

Section 2 modifies the definitions of "gold coin" and "silver coin" to clarify that the purity requirement applies to the entire coin or item as a single unit and not to any isolated component or embedded portion of the gold or silver. The term does not include items that incorporate gold or silver within nonmetal substrates, such as polymer, plastic, paper, or other composite materials, regardless of the gold or silver component.

The bill restricts any marks indicating the face value of a coin in the official currency of any government, a country's name on the coin, or phrases implying governmental issuance or that the coin was minted by a government mint.

The bill authorizes artistic or decorative designs, such as images of animals, historical figures, or patterns, to be marked on the coin if they are integral to the coin's surface and do not imply governmental issuance, provided the coin otherwise meets the requirements for legal tender.

Section 3 modifies the definition of "custodian of gold coin or silver coin" to apply only to transactional gold or silver that is "intended to be capable of electronic transfer." The term "transactional gold and silver" is defined as gold or silver held by a third party which is intended to be used, transferred, or exchanged as legal tender in a commercial or financial transaction through electronic or digital means. The term does not include an individual or entity that holds gold or silver that is not intended to be used as legal tender.

The bill removes "gold coin" and "silver coin" from services offered by a "foreign currency exchanger." The bill also removes a "custodian of gold coin or silver coin" from the types of

[127] Section 560.209, F.S.
[128] Section 560.210(1), F.S. (providing permissible investments include, for instance, cash, certificates of deposit, or shares in a money market mutual fund).
[129] Section 560.211, F.S.
[130] The OFR, *2026 Agency Legislative Bill Analysis Florida Office of Financial Regulation for SB 1588*, 2, Feb. 5, 2026 (on file with the Senate Committee on Banking and Insurance) (hereinafter cited as "2026 OFR Agency Analysis for SB 1588").

services offered by a money services business. This removes the OFR's direct regulatory authority of custodians that safekeep and store gold and silver coin.

Section 4 modifies the requirement that OFR must examine a custodian at least annually to instead require OFR to annually examine a money services business that transmits gold or silver coin.

Section 5 removes the requirement that OFR must conduct an examination of a proposed custodian's vault before issuing a license to determine the applicant's ability to conduct business immediately upon opening for business.

Section 6 limits the money services business requirements for offering products or services in gold or silver coin to apply only to transmission of such coin, and removes storing, exchanging, or accepting payment as types of services that require compliance with the requirements.[131]

The bill requires a licensee that relies on a custodian's insurance to independently verify the insurance coverage is current and active.

Section 7 removes the additional license application requirements for custodians, and requires evidence, as prescribed by rule, of an applicant's compliance with certain money services business requirements for transmission of gold or silver coin[132] if the applicant intends to offer such services.

Section 8 repeals section 560.214, F.S., relating to custodian requirements that were adopted in ch. 2025-100, L.O.F.[133] This eliminates statutory standards adopted to protect consumers assets that are held by custodians in vault facilities. The deleted standards are related to security against theft, accurate recordkeeping and accounting, safeguards against misappropriation of deposits, disclosures and quarterly statements to consumers, and returning gold to its owners upon request.

Sections 9, 10, and 11 conform to changes made because s. 560.214, F.S., is repealed in section 8 of the bill.

Section 12 provides the bill is effective upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

[131] Supra note 109.
[132] Supra note 107.
[133] Supra note 108.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

While the U.S. Constitution authorizes states to make gold and silver coin legal tender for a payment of debt, gold coin or silver coin are not defined. The definitions established in the bill for these terms are broad and a federal court may interpret the meaning of these terms, and therefore the scope of a state's authority to make such coin legal tender, to be narrower than provided in the bill.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill has an indeterminate fiscal impact on the state revenue expenditures.

VI. Technical Deficiencies:

The OFR reports that the agency is unsure how to determine whether any of the following conditions in the definition of "custodian of gold coin or silver coin" have been met:

- Ownership of gold coin and/or silver coin is/is not intended to be capable of electronic transfer for legal tender as defined in s. 215.986(1), F.S. (Lines 96-99).
- A person or entity holding gold coin and/or silver coin is/is not intending to use the gold coin and/or silver coin as legal tender. (Lines 101-104).
- The gold or silver held by a third party is/is not intended to be used, transferred, or exchanged as legal tender in a commercial or financial transaction through electronic or digital media. (Lines 104-108).[134]

VII. Related Issues:

None.

[134] 2026 OFR Agency Analysis for SB 1588 at 5.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 215.986, 560.103, 560.109, 560.141, 560.155, 560.205, 560.214, 280.21, 559.952, 655.97

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.