

Committee Substitute for Senate Bill No. 2562

An act relating to money transmitters; amending s. 560.103, F.S.; defining the term “unsafe and unsound practice” for purposes of the Money Transmitters’ Code to include failure to comply with specified provisions of the Code of Federal Regulations relating to money and finance; amending s. 560.109, F.S.; authorizing the Office of Financial Regulation of the Financial Services Commission to make investigations or examinations to determine a violation of provisions of the Code of Federal Regulations relating to money and finance; amending s. 560.114, F.S.; providing for disciplinary actions for failure to maintain all books, accounts, or other documents pursuant to provisions of the Code of Federal Regulations relating to money and finance; amending s. 560.129, F.S.; providing that financial records or information may be furnished to any law enforcement agency; amending s. 560.208, F.S.; including business by electronic transfer in the business that registrants who sell or issue payment instruments or transmit funds may conduct; exempting, under specified conditions, a registrant who charges a different price for a funds transmission service from a penalty under s. 501.0117; providing an effective date.

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

Section 1. Subsection (21) of section 560.103, Florida Statutes, is amended to read:

560.103 Definitions.—As used in the code, unless the context otherwise requires:

(21) “Unsafe and ~~or~~ unsound practice” means:

(a) Any practice or conduct found by the office to be contrary to generally accepted standards applicable to the specific money transmitter, or a violation of any prior order of an appropriate regulatory agency, which practice, conduct, or violation creates the likelihood of material loss, insolvency, or dissipation of assets of the money transmitter or otherwise materially prejudices the interests of its customers; or.

(b) Failure to adhere to the provisions of 31 C.F.R. ss. 103.20, 103.22, 103.27, 103.28, 103.29, 103.33, 103.37, 103.41, and 103.125 as they existed on March 31, 2004.

In making a ~~this~~ determination under this subsection, the office must consider the size and condition of the money transmitter, the magnitude of the loss, the gravity of the violation, and the prior conduct of the person or business involved.

Section 2. Subsection (1) of section 560.109, Florida Statutes, is amended to read:

560.109 Investigations, subpoenas, hearings, and witnesses.—

(1) The office may make investigations or examinations as prescribed in s. 560.118, within or outside this state, which it deems necessary in order to determine whether a person has violated any provision of the code, ~~or the rules adopted by the commission pursuant to the code, or 31 C.F.R. ss. 103.20, 103.22, 103.27, 103.28, 103.29, 103.33, 103.37, 103.41, and 103.125~~ as they existed on March 31, 2004.

Section 3. Paragraph (e) of subsection (1) of section 560.114, Florida Statutes, is amended to read:

560.114 Disciplinary actions.—

(1) The following actions by a money transmitter or money transmitter-affiliated party are violations of the code and constitute grounds for the issuance of a cease and desist order, the issuance of a removal order, the denial of a registration application or the suspension or revocation of any registration previously issued pursuant to the code, or the taking of any other action within the authority of the office pursuant to the code:

(e) Failure to maintain, preserve, and keep available for examination all books, accounts, or other documents required by the code, by any rule or order adopted pursuant to the code, by 31 C.F.R. ss. 103.20, 103.22, 103.27, 103.28, 103.29, 103.33, 103.37, 103.41, and 103.125 as they existed on March 31, 2004, or by any agreement entered into with the office.

Section 4. Subsection (2) of section 560.129, Florida Statutes, is amended to read:

560.129 Confidentiality.—

(2) This section does not prevent or restrict:

(a) Furnishing records or information to any appropriate regulatory agency or law enforcement agency if such agency adheres to the confidentiality provisions of the code;

(b) Furnishing records or information to an independent third party or a certified public accountant who has been approved by the office to conduct an examination under s. 560.118(1)(b), if the independent third party or certified public accountant adheres to the confidentiality provisions of the code; or

(c) Reporting any suspected criminal activity, with supporting documents and information, to appropriate law enforcement or prosecutorial agencies.

Section 5. Subsection (1) of section 560.208, Florida Statutes, is amended to read:

560.208 Conduct of business.—

(1) A registrant may conduct its business at one or more locations within this state through branches or by means of authorized vendors, as desig-

nated by the registrant, including the conduct of business through electronic transfer, such as by the telephone or the Internet. Notwithstanding and without violating s. 501.0117, a registrant may charge a different price for a funds transmission service based on the mode of transmission used in the transaction, so long as the price charged for a service paid for with a credit card is not greater than the price charged when that service is paid for with currency or other similar means accepted within the same mode of transmission.

Section 6. This act shall take effect upon becoming a law.

Approved by the Governor May 21, 2004.

Filed in Office Secretary of State May 21, 2004.