

CHAPTER 2022-113

Committee Substitute for House Bill No. 273

An act relating to money services businesses; amending s. 559.952, F.S.; revising exceptions for a licensee during the Financial Technology Sandbox period; amending s. 560.103, F.S.; revising and providing definitions; amending s. 560.123, F.S.; revising the purpose of the Florida Control of Money Laundering in Money Services Business Act; revising duties of money services businesses; revising provisions related to violations of money services business activities and penalties for such violations; amending s. 560.125, F.S.; revising provisions related to violations of money services business activities and penalties for such violations; amending s. 560.204, F.S.; revising provisions related to certain prohibited activities without a license; revising the definition of the term “compensation”; amending s. 560.208, F.S.; revising requirements for a money transmitter or payment instrument seller to conduct business; amending s. 560.2085, F.S.; revising requirements for a written contract between a money transmitter or payment instrument seller and an authorized vendor; amending s. 560.210, F.S.; providing requirements for a money transmitter that receives virtual currency; excluding virtual currency in the calculation of permissible investments under certain circumstances; amending s. 560.211, F.S.; revising recordkeeping requirements for a money transmitter or payment instrument seller; amending s. 560.212, F.S.; revising financial liability requirements for a money transmitter or payment instrument seller; providing an effective date.

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

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

559.952 Financial Technology Sandbox.—

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

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

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

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

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

4. Section 560.118(2).

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

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

7. Section 560.128.

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

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

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

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

12. Section 560.205(2).

13. Section 560.208(2).

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

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

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

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

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

(23) “Money transmitter” means a corporation, limited liability company, limited liability partnership, or foreign entity qualified to do business in this state which receives currency, monetary value, a ~~or~~ payment instrument, or virtual currency instruments 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 transmitting the same 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. The term includes only an intermediary that has the ability to unilaterally execute or indefinitely prevent a transaction.

(29) “Payment instrument” means a check, draft, warrant, money order, travelers check, electronic instrument, or other instrument used for the transmission, exchange, or payment of currency ~~money~~, or monetary value, regardless of whether it is ~~or not~~ 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.

(35) “Stored value” means currency funds or monetary value represented in digital electronic format, regardless of whether it is ~~or not~~ specially encrypted, and stored or capable of storage on electronic media in such a way as to be retrievable and transferred electronically.

(36) “Virtual currency” means a medium of exchange in electronic or digital format that is not currency. The term does not include a medium of exchange in electronic or digital format that is:

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

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

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

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

(2) The purpose of this section is to require the maintenance of certain records of transactions involving currency, monetary value, or payment instruments, or virtual currency in order to deter the use of a money services business to conceal proceeds from criminal activity and to ensure the availability of such records for criminal, tax, or regulatory investigations or proceedings.

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

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

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

(c) The money services business must file a report with the office of any records required by this subsection, at such time and containing such information as required by rule. The timely filing of the report required by 31 U.S.C. s. 5313 with the appropriate federal agency shall be deemed compliance with the reporting requirements of this subsection unless the reports are not regularly and comprehensively transmitted by the federal agency to the office.

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

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

(8)

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

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

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

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

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

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

Section 4. Subsections (5), (6), and (7) of section 560.125, Florida Statutes, are amended to read:

560.125 Unlicensed activity; penalties.—

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

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

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

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

(6) In addition to the penalties authorized by s. 775.082, s. 775.083, or s. 775.084, a person who has been convicted of, or entered a plea of guilty or nolo contendere to, having violated this section may be sentenced to pay a fine of up to the greater of \$250,000 or twice the value of the currency, monetary value, or payment instruments, or virtual currency whichever is greater, except that on a second or subsequent violation of this section, the fine may be up to the greater of \$500,000 or quintuple the value of the currency, monetary value, or payment instruments, or virtual currency whichever is greater.

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

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

560.204 License required.—

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

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

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

(5) Shall, in the normal course of business, ensure that currency, monetary value, payment instruments, or virtual currency ~~money~~ transmitted is available to the designated recipient within 10 business days after receipt.

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

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

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

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

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

- 1. Report to the licensee, immediately upon discovery, the theft or loss of currency, monetary value, a payment instrument, or virtual currency received for a transmission or for a payment instrument sold;
- 2. Display a notice to the public, in such form as prescribed by rule, that the vendor is the authorized vendor of the licensee;
- 3. Remit all amounts owed to the licensee for all transmissions accepted and all payment instruments sold in accordance with the contract between the licensee and the authorized vendor;
- 4. Hold in trust all currency, monetary value, or payment instruments, or virtual currency received for transmissions or for the purchase of payment instruments from the time of receipt by the licensee or authorized vendor until the time the transmission obligation is completed;
- 5. Not commingle the currency, monetary value, payment instruments, or virtual currency ~~money~~ received for transmissions accepted or payment instruments sold on behalf of the licensee with the ~~assets~~ ~~money~~ or property of the authorized vendor, except for making change in the ordinary course of the vendor’s business; ~~and~~
- ~~6.~~ 6. Ensure that the currency, monetary value, payment instruments, or virtual currency received for transmissions accepted or payment instruments sold ~~money~~ is accounted for at the end of the business day;
- ~~7.6.~~ 7.6. Consent to examination or investigation by the office;
- ~~8.7.~~ 8.7. Adhere to the applicable state and federal laws and rules pertaining to a money services business; and
- ~~9.8.~~ 9.8. Provide such other information or disclosure as may be required by rule.

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

560.210 Permissible investments.—

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

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

560.211 Required records.—

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

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

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

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

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

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

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

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

Approved by the Governor May 12, 2022.

Filed in Office Secretary of State May 12, 2022.