

Committee Substitute for Committee Substitute for
Committee Substitute for Senate Bill No. 2158

An act relating to money services businesses; changing the name of money transmitters to money services businesses; requiring licensure rather than registration; amending s. 560.103, F.S.; revising definitions; defining the terms “affiliated party,” “branch office,” “cashing,” “compliance officer,” “electronic instrument,” “financial audit report,” “foreign affiliate,” “licensee,” “location,” “monetary value,” “net worth,” “outstanding money transmission,” and “stored value”; amending s. 560.104, F.S.; revising provision providing exemptions from ch. 560, F.S.; amending s. 560.105, F.S.; revising provisions relating to the powers of the Office of Financial Regulation and the Financial Services Commission; amending s. 560.109, F.S.; revising provisions relating to examinations and investigations conducted by the office; requiring that the office periodically examine each licensee and each new licensee within 6 months after issuing a license; requiring the office to report certain violations to a criminal investigatory agency; requiring that the office annually report to the Legislature information concerning investigations and examinations and the total amount of fines assessed and collected; requiring records in a language other than English to be translated; creating s. 560.1091, F.S.; authorizing the office to contract with third parties to conduct examinations; authorizing the commission to adopt rules relating to who can conduct examinations and the rates charged; creating s. 560.1092, F.S.; requiring persons examined to pay the expenses of examination as set by rule of the commission; providing for the deposit of funds collected from licensees; requiring payment for travel expenses and living expenses and compensation for persons making the examinations from such funds or from funds budgeted for such purposes; creating s. 560.110, F.S.; providing for record retention by licensees; amending s. 560.111, F.S.; revising the list of prohibited acts by a money services business; amending s. 560.113, F.S.; providing for the establishment of a receivership or the payment of restitution by a person found to have violated ch. 560, F.S.; amending s. 560.114, F.S.; revising grounds for the disciplinary actions; creating s. 560.1141, F.S.; authorizing the commission to adopt disciplinary guidelines for imposing penalties for violations; providing for mitigating and aggravating circumstances; amending s. 560.115, F.S.; revising provisions relating to the voluntary surrender of a license; amending s. 560.116, F.S.; revising provisions relating to the granting of immunity for providing information about alleged violations of ch. 560, F.S.; amending s. 560.118, F.S.; revising provisions relating to required reports; deleting an exemption from the requirement to file an annual financial report; transferring, renumbering, and amending s. 560.119, F.S.; revising provisions providing for the deposit of fees and assessments; amending s. 560.121, F.S.; revising restriction on access to records held by a court or the Legislature; amending s. 560.123, F.S.;

revising provisions relating to the Florida Control of Money Laundering in Money Services Business; creating s. 560.1235, F.S.; requiring a licensee to comply with state and federal anti-money laundering laws and rules; amending s. 560.124, F.S.; revising provisions relating to sharing reported information; amending s. 560.125, F.S.; revising provisions relating to unlicensed activity; amending s. 560.126, F.S.; revising provisions relating to certain notice requirements by a licensee; amending s. 560.127, F.S.; revising provisions relating to the control of a money services business; amending s. 560.128, F.S.; revising provisions relating to customer contacts and license display; amending s. 560.129, F.S.; revising provisions relating to the confidentiality of certain records; creating s. 560.140, F.S.; providing licensing standards for a money services business; creating s. 560.141, F.S.; providing for a license application; creating s. 560.142, F.S.; providing for license renewal; creating s. 560.143, F.S.; providing for license fees; amending s. 560.203, F.S.; revising the exemption from licensure for authorized vendors of a money services business; amending s. 560.204, F.S.; revising provisions relating to the requirement for licensure of money transmitters or sellers of payment instruments under part II of ch. 560, F.S.; amending s. 560.205, F.S.; providing additional requirements for a license application; amending s. 560.208, F.S.; revising provisions relating to the conduct of a licensee; creating s. 560.2085, F.S.; providing requirements for authorized vendors; amending s. 560.209, F.S.; revising provisions relating to a licensee's net worth and the filing of a corporate surety bond; requiring a financial audit report; increasing the upper limit of the bond; deleting the option of waiving the bond; amending s. 560.210, F.S.; revising provisions relating to permissible investments; amending s. 560.211, F.S.; revising provisions relating to required recordkeeping under part II of ch. 560, F.S.; amending s. 560.212, F.S.; revising provisions relating to licensee liability; amending s. 560.213, F.S.; revising provisions relating information that must be printed on a payment instrument; amending s. 560.303, F.S.; revising provisions relating to the licensure of check cashers under part II of ch. 560, F.S.; amending s. 560.304, F.S.; revising provisions relating to exemptions from licensure; limiting the exemption for the payment of instruments below a certain value and incidental to certain retail sales; amending s. 560.309, F.S.; revising provisions relating to the conduct of check cashers; providing additional requirements; amending s. 560.310, F.S.; revising requirements for licensee records; specifying the maintenance of identification records for certain customers; amending s. 560.402, F.S.; revising definitions relating to deferred presentment providers; amending s. 560.403, F.S.; revising provisions relating to the licensing requirements for deferred presentment providers; amending s. 560.404, F.S.; revising provisions relating to deferred presentment transactions; amending s. 560.405, F.S.; revising provisions relating to the redemption or deposit of a deferred presentment transaction; amending s. 560.406, F.S.; revising provisions relating to worthless checks; amending ss. 499.005, 499.0691, 501.95, 538.03, 896.101, 896.104, and 921.0022, F.S.; conforming cross-references;

repealing s. 560.101, F.S., relating to a short title; repealing s. 560.102, F.S., relating to purpose and application; repealing s. 560.106, F.S., relating to chapter constructions; repealing s. 560.1073, F.S., relating to false or misleading statements or documents; repealing s. 560.108, F.S., relating to administrative enforcement guidelines; repealing s. 560.112, F.S., relating to disciplinary action procedures; repealing s. 560.117, F.S., relating to administrative fines; repealing s. 560.200, F.S., relating to a short title; repealing s. 560.202, F.S., relating to definitions; repealing s. 560.206, F.S., relating to the investigation of applicants; repealing s. 560.207, F.S., relating to registration; repealing s. 560.301, F.S., relating to a short title; repealing s. 560.302, F.S., relating to definitions; repealing s. 560.305, F.S., relating to application for registration; repealing s. 560.306, F.S., relating to standards; repealing s. 560.307, F.S., relating to fees; repealing s. 560.308, F.S., relating to registration; repealing s. 560.401, F.S., relating to a short title; repealing s. 560.407, F.S., relating to required records; providing an effective date.

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

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

560.103 Definitions.—As used in this chapter, ~~the term the code, unless the context otherwise requires:~~

(1) “Affiliated party” means a director, officer, responsible person, employee, or foreign affiliate of a money services business, or a person who has a controlling interest in a money services business as provided in s. 560.127.

~~(2)(1) “Appropriate regulator” means a any state, or federal, or foreign agency that, including the commission or office, which has been granted state or federal statutory authority to enforce state, federal, or foreign laws related to a money services business or deferred presentment provider with regard to the money transmission function.~~

~~(3)(2) “Authorized vendor” means a person designated by a money services business licensed under part II of this chapter a registrant to act engage in the business of a money transmitter on behalf of the licensee the registrant at locations in this state pursuant to a written contract with the licensee registrant.~~

~~(4) “Branch office” means the physical location, other than the principal place of business, of a money services business operated by a licensee under this chapter.~~

~~(5) “Cashing” means providing currency for payment instruments except for travelers checks.~~

~~(6)(3) “Check cashier” means a person who, for compensation, sells currency in exchange for payment instruments received, except travelers checks and foreign-drawn payment instruments.~~

(4) ~~“Code” means the “Money Transmitters’ Code,” consisting of:~~

(a) ~~Part I of this chapter, relating to money transmitters generally.~~

(b) ~~Part II of this chapter, relating to payment instruments and funds transmission.~~

(c) ~~Part III of this chapter, relating to check cashing and foreign currency exchange.~~

(d) ~~Part IV of this chapter, relating to deferred presentments.~~

(7) “Commission” means the Financial Services Commission.

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

(5) ~~“Consideration” means and includes any premium charged for the sale of goods, or services provided in connection with the sale of the goods, which is in excess of the cash price of such goods.~~

(9)(6) “Currency” means the coin and paper money of the United States or of any other country which is designated as legal tender and which circulates and is customarily used and accepted as a medium of exchange in the country of issuance. Currency includes United States silver certificates, United States notes, and Federal Reserve notes. Currency also includes official foreign bank notes that are customarily used and accepted as a medium of exchange in a foreign country.

(7) ~~“Commission” means the Financial Services Commission.~~

(10) “Deferred presentment provider” means a person who is licensed under part II or part III of this chapter and has filed a declaration of intent with the office to engage in deferred presentment transactions as provided under part IV of this chapter.

(11) “Electronic instrument” means a card, tangible object, or other form of electronic payment for the transmission or payment of money or the exchange of 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.

(12) “Financial audit report” means a report prepared in connection with a financial audit that is conducted in accordance with generally accepted auditing standards prescribed by the American Institute of Certified Public Accountants by a certified public accountant licensed to do business in the United States, and which must include:

(a) Financial statements, including notes related to the financial statements and required supplementary information, prepared in conformity with accounting principles generally accepted in the United States. The

notes must, at a minimum, include detailed disclosures regarding receivables that are greater than 90 days, if the total amount of such receivables represent more than 2 percent of the licensee's total assets.

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

(13) "Foreign affiliate" means a person located outside this state who has been designated by a licensee to make payments on behalf of the licensee to persons who reside outside this state. The term also includes a person located outside of this state for whom the licensee has been designated to make payments in this state.

~~(8) "Office" means the Office of Financial Regulation of the commission.~~

(14)(9) "Foreign currency exchanger" means a person who exchanges, for compensation, currency of the United States or a foreign government to currency of another government.

~~(10) "Funds transmitter" means a person who engages in the receipt of currency or payment instruments for the purpose of transmission by any means, including transmissions within this country or to or from locations outside this country, by wire, facsimile, electronic transfer, courier, or otherwise.~~

(15) "Licensee" means a person licensed under this chapter.

(16) "Location" means a branch office, mobile location, or location of an authorized vendor whose business activity is regulated under this chapter.

(17) "Monetary value" means a medium of exchange, whether or not redeemable in currency.

~~(18)(11) "Money services business transmitter" means 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 funds transmitter, or deferred presentment provider.~~

(19) "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, or payment instruments for the purpose of 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.

~~(12) "Money transmitter-affiliated party" means any director, officer, responsible person, employee, authorized vendor, independent contractor of a money transmitter, or a person who has filed, is required to file, or is found to control a money transmitter pursuant to s. 560.127, or any person engaged in any jurisdiction, at any time, in the business of money transmission~~

as a controlling shareholder, director, officer, or responsible person who becomes involved in a similar capacity with a money transmitter registered in this state.

(20) “Net worth” means assets minus liabilities, determined in accordance with United States generally accepted accounting principles.

(21) “Office” means the Office of Financial Regulation of the commission.

~~(22)(13) “Officer” means an individual, other than a director whether or not the individual has an official title or receives a salary or other compensation, who participates in, or has authority to participate, other than in the capacity of a director, in, the major policymaking functions of a the money services transmitter business, regardless of whether the individual has an official title or receives a salary or other compensation.~~

(23) “Outstanding money transmission” means a money transmission to a designated recipient or a refund to a sender that has not been completed.

~~(24)(14) “Outstanding payment instrument instruments” means an unpaid payment instrument instruments whose sale has been reported to a licensee registrant.~~

~~(25)(15) “Payment instrument” means a check, draft, warrant, money order, travelers check, electronic instrument, or other instrument, or payment of money, or monetary value whether or not negotiable. The term Payment instrument does not include an instrument that is redeemable by the issuer in merchandise or service, a credit card voucher, or a letter of credit.~~

~~(26)(16) “Payment instrument seller” means a corporation, limited liability company, limited liability partnership, or foreign entity qualified to do business in this state which person who sells a payment instrument.~~

~~(27)(17) “Person” means an any individual, partnership, association, trust, corporation, limited liability company, or other group, however organized, but does not include a public the governments of the United States or this state or any department, agency, or instrumentality thereof.~~

~~(18) “Registrant” means a person registered by the office pursuant to the code.~~

~~(28)(19) “Responsible person” means an individual a person who is employed by or affiliated with a money services business transmitter and who has principal active management authority over the business decisions, actions, and activities of the money services business transmitter in this state.~~

~~(29)(20) “Sells Sell” means to sell, issue, provide, or deliver.~~

~~(30) “Stored value” means funds or monetary value represented in digital electronics format, whether or not specially encrypted, and stored or capable of storage on electronic media in such a way as to be retrievable and transferred electronically.~~

(21) ~~“Unsafe and 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 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. Section 560.104, Florida Statutes, is amended to read:

560.104 Exemptions.—The following entities are exempt from the provisions of this chapter ~~the code~~:

(1) Banks, credit card banks, credit unions, trust companies, associations, offices of an international banking corporation, Edge Act or agreement corporations, or other financial depository institutions organized under the laws of any state or the United States, ~~provided that they do not sell payment instruments through authorized vendors who are not such entities.~~

(2) The United States or any agency or department, instrumentality, ~~or agency~~ thereof.

(3) This state or any political subdivision of this state.

Section 3. Section 560.105, Florida Statutes, is amended to read:

560.105 Supervisory powers; rulemaking.—

(1) ~~Consistent with the purposes of the code,~~ The office shall have:

(a) Supervise ~~Supervision over~~ all money services businesses ~~transmitters~~ and their authorized vendors.

(b) Have access to the books and records of persons ~~over whom~~ the office supervises ~~exercises supervision as is necessary to carry out for the performance of~~ the duties and functions of the office under this chapter ~~prescribed by the code.~~

(c) ~~Power to~~ Issue orders and declaratory statements, disseminate information, and otherwise administer and enforce this chapter and all related rules in order ~~exercise its discretion~~ to effectuate the purposes, policies, and provisions of this chapter ~~the code.~~

(2) ~~Consistent with the purposes of the code, The commission may adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this chapter implement the provisions of the code.~~

(a)(3) ~~The commission may adopt rules pursuant to ss. 120.536(1) and 120.54 requiring electronic submission of any forms, documents, or fees required by this chapter, which must code if such rules reasonably accommodate technological or financial hardship. The commission may prescribe by rule requirements and provide procedures for obtaining an exemption due to a technological or financial hardship.~~

(b) Rules adopted to regulate money services businesses, including deferred presentment providers, must be responsive to changes in economic conditions, technology, and industry practices.

Section 4. Section 560.109, Florida Statutes, is amended to read:

560.109 Examinations and investigations, subpoenas, hearings, and witnesses.—

(1) ~~The office may conduct examinations and 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 this chapter and related rules the code, the rules adopted by the commission pursuant to the code, or of any practice or conduct that creates the likelihood of material loss, insolvency, or dissipation of the assets of a money services business or otherwise materially prejudices the interests of their customers 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.~~

(1) The office may examine each licensee as often as is warranted for the protection of customers and in the public interest, but at least once every 5 years. A new licensee shall be examined within 6 months after the issuance of the license. The office shall provide at least 15 days' notice to a money services business, its authorized vendor, or license applicant before conducting an examination or investigation. However, the office may conduct an examination or investigation of a money services business, authorized vendor, or affiliated party at any time and without advance notice if the office suspects that the money services business, authorized vendor, or affiliated party has violated or is about to violate any provisions of this chapter or any criminal laws of this state or of the United States.

(2) The office may conduct a joint or concurrent examination with any state or federal regulatory agency and may furnish a copy of all examinations to an appropriate regulator if the regulator agrees to abide by the confidentiality provisions in chapter 119 and this chapter. The office may also accept an examination from any appropriate regulator or, pursuant to s. 560.1091, from an independent third party that has been approved by the office.

(3) Persons subject to this chapter who are examined or investigated shall make available to the office all books, accounts, documents, files, infor-

mation, assets, and matters that are in their immediate possession or control and that relate to the subject of the examination or investigation.

(a) Records not in their immediate possession must be made available to the office within 3 days after actual notice is served.

(b) Upon notice, the office may require that records written in a language other than English be accompanied by a certified translation at the expense of the licensee. For purposes of this section, the term "certified translation" means a document translated by a person who is currently certified as a translator by the American Translators Association or other organization designated by rule.

(4)(2)(a) In the course of or in connection with any examination or an investigation conducted by the office:

(a) An employee of the office holding the title and position of a pursuant to the provisions of subsection (1) or an investigation or examination in connection with any application to the office for the organization or establishment of a money transmitter business, or in connection with an examination or investigation of a money transmitter or its authorized vendor, the office, or any of its officers holding no lesser title and position than financial examiner or analyst, financial investigator, or attorney at law, or higher may:

1. Administer oaths and affirmations.
2. Take or cause to be taken testimony and depositions.

(b) The office, or any of its employees officers holding a title of no lesser title than attorney, or area financial manager, or higher may issue, revoke, quash, or modify subpoenas and subpoenas duces tecum under the seal of the office or cause any such subpoena or subpoena duces tecum to be issued by any county court judge or clerk of the circuit court or county court to require persons to appear before the office at a reasonable time and place to be therein named and to bring such books, records, and documents for inspection as may be therein designated. Such subpoenas may be served by a representative of the office or may be served as otherwise provided for by law for the service of subpoenas.

(c) In connection with any such investigation or examination, The office may allow permit a person to file a statement in writing, under oath, or otherwise as the office determines, as to facts and circumstances specified by the office.

(5)(3)(a) If a person does not comply In the event of noncompliance with a subpoena issued or caused to be issued by the office pursuant to this section, the office may petition a court of competent jurisdiction the circuit court of the county in which the person subpoenaed resides or has its principal place of business for an order requiring the subpoenaed person to appear and testify and to produce such books, records, and documents as are specified in the such subpoena duces tecum. The office is entitled to the summary procedure provided in s. 51.011, and the court shall advance the cause on its calendar.

(a)(b) A copy of the petition shall be served upon the person subpoenaed by any person authorized by this section to serve subpoenas, who shall make and file with the court an affidavit showing the time, place, and date of service.

(b)(e) At ~~a any~~ hearing on ~~the any such~~ petition, the person subpoenaed, or any person whose interests are ~~will be~~ substantially affected by the investigation, examination, or subpoena, may appear and object to the subpoena and to the granting of the petition. The court may make any order that justice requires ~~in order~~ to protect a party or other person and her or his personal and property rights, including, but not limited to, protection from ~~annoyance, embarrassment, oppression, or~~ undue burden, or expense.

(c)(d) Failure to comply with an order granting, in whole or in part, a petition for enforcement of a subpoena is a contempt of the court.

(6)(4) Witnesses are entitled to the same fees and mileage ~~to which they would be entitled by law for attending~~ as witnesses in the circuit court, except that ~~no~~ fees or mileage is not allowed for the testimony of a person taken at the person's principal office or residence.

(7)(5) Reasonable and necessary costs incurred by the office or third parties authorized by the office in connection and payable to persons involved with examinations or investigations may be assessed against any person subject to this chapter on the basis of actual costs incurred. Assessable expenses include, but are not limited to, expenses for interpreters; certified translations of documents into the English language required by this chapter or related rules; expenses for communications; expenses for legal representation; expenses for economic, legal, or other research, analyses, and testimony; and fees and expenses for witnesses. The failure to reimburse the office is a ground for denial of a license the registration application, denial of a license renewal, or for revocation of any approval thereof. Except for examinations authorized under s. 560.109. No such costs may not shall be assessed against a person unless the office determines has determined that the person has operated or is operating in violation of this chapter the code.

(8) The office shall provide a written report of any violation of law that may be a felony to the appropriate criminal investigatory agency having jurisdiction with respect to such violation.

(9) The office shall prepare and submit an annual report to the President of the Senate and the Speaker of the House of Representatives beginning January 1, 2009, through January 1, 2014, which includes:

(a) The total number of examinations and investigations that resulted in a referral to a state or federal agency and the disposition of each of those referrals by agency.

(b) The total number of initial referrals received from another state or federal agency, the total number of examinations and investigations opened as a result of referrals, and the disposition of each of those cases.

(c) The number of examinations or investigations undertaken by the office which were not the result of a referral from another state agency or a federal agency.

(d) The total amount of fines assessed and collected by the office as a result of an examination or investigation of activities regulated under parts II and III of this chapter.

Section 5. Section 560.1091, Florida Statutes, is created to read:

560.1091 Contracted examinations.—The office may contract with third parties to conduct examinations under this chapter.

(1) The person or firm selected by the office may not have a conflict of interest that might affect its ability to independently perform its responsibilities with respect to an examination.

(2) An examination under this section may be conducted by an independent certified public accountant, information technology specialist, or other specialist specified by rule who meets criteria specified by rule. The rules shall also provide that:

(a) The rates charged to the licensee examined are consistent with rates charged by other firms in similar professions and are comparable with the rates charged for comparable examinations.

(b) The licensee make payment for the examination pursuant to s. 560.1092 and in accordance with the rates and terms established by the office and the person or firm performing the examination.

Section 6. Section 560.1092, Florida Statutes, is created to read:

560.1092 Examination expenses.—

(1) Each licensee examined shall pay to the office the expenses of the examination at the rates adopted by the commission by rule. Such expenses shall include actual travel expenses, reasonable living expense allowance, compensation of the examiner or other person making the examination, and necessary attendant administrative costs of the office directly related to the examination. Travel expense and living expense allowance are limited to those expenses incurred on account of the examination and shall be paid by the examined licensee together with compensation upon presentation by the office to the licensee of a detailed account of the charges and expenses after a detailed statement has been filed by the examiner and approved by the office.

(2) All moneys collected from licensees for examinations shall be deposited into the Regulatory Trust Fund, and the office may make deposits into such fund from moneys appropriated for the operation of the office.

(3) Notwithstanding s. 112.061, the office may pay to the examiner or person making the examination out of the trust fund the actual travel expenses, reasonable living expense allowance, and compensation in accord-

ance with the statement filed with the office by the examiner or other person, as provided in subsection (1) upon approval by the office.

(4) When not examining a licensee, the travel expenses, per diem, and compensation for the examiners and other persons employed to make examinations, if approved, shall be paid out of moneys budgeted for such purpose as regular employees, and reimbursement for travel expenses and per diem shall be at rates as provided in s. 112.061.

Section 7. Section 560.110, Florida Statutes, is created to read:

560.110 Records retention.—Each licensee and its authorized vendors must maintain all books, accounts, documents, files, and information necessary for determining compliance with this chapter and related rules for 5 years unless a longer period is required by other state or federal law.

(1) The records required under this chapter may be maintained by the licensee at any location identified in its license application or by amendment to the application. The licensee must make such records available to the office for examination and investigation in this state within 3 business days after receipt of a written request.

(2) The original of any record of a licensee or authorized vendor includes a record stored or transmitted by electronic, computerized, mechanized, or other information storage or retrieval or transmission system or device that can generate, regenerate, or transmit the precise data or other information comprising the record. An original also includes the visible data or other information so generated, regenerated, or transmitted if it is legible or can be made legible by enlargement or other process.

(3) The commission may adopt rules to administer this section and ss. 560.211 and 560.310. In adopting rules, the commission shall take into consideration federal regulations, rulings, and guidance issued by an appropriate regulator.

(4) Any person who willfully fails to comply with this section or ss. 560.211 and 560.310 commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 8. Section 560.111, Florida Statutes, is amended to read:

560.111 Prohibited acts and practices.—

(1) A money services business, authorized vendor, or affiliated party may not ~~It is unlawful for any money transmitter or money transmitter-affiliated party to:~~

(a) ~~Receive or possess itself of any property except otherwise than~~ in payment of a just demand, and, with intent to deceive or defraud, to omit to make or ~~to~~ cause to be made a full and true entry thereof in its books and accounts, or to concur in omitting to make any material entry thereof.;

(b) ~~Embezzle, abstract, or misapply any money, property, or thing of value belonging to the money services business, an of the money transmitter~~

~~or authorized vendor, or customer with intent to deceive or defraud, such money transmitter or authorized vendor;~~

(c) ~~Make any false entry in its books, accounts, reports, files, or documents any book, report, or statement of such money transmitter or authorized vendor with intent to deceive or defraud such money transmitter, authorized vendor, or another person, or with intent to deceive the office, any appropriate regulator other state or federal regulatory agency, or any authorized third party representative appointed by the office to examine or investigate the affairs of the such money services business transmitter or authorized vendor.;~~

(d) ~~Engage in an act that violates 18 U.S.C. s. 1956, 18 U.S.C. s. 1957, 18 U.S.C. s. 1960, 31 U.S.C. s. 5324, or any other law, rule, or regulation of another state or of the United States relating to a money services business, deferred presentment provider, the business of money transmission or usury which may cause the denial or revocation of a money services business or deferred presentment provider transmitter license or the equivalent registration in that such jurisdiction.;~~

(e) ~~File with the office, sign as a duly authorized representative, or deliver or disclose, by any means, to the office or any of its employees any examination report, report of condition, report of income and dividends, audit, account, statement, file, or document known by it to be fraudulent or false as to any material matter.;~~

(f) ~~Place among the assets of a money services business such money transmitter or authorized vendor any note, obligation, or security that the money services business transmitter or authorized vendor does not own or is known to be that to the person's knowledge is fraudulent or otherwise worthless, or for any such person to represent to the office that any note, obligation, or security carried as an asset of such money transmitter or authorized vendor is the property of the money services business transmitter or authorized vendor and is genuine if it is known to be such person that such representation is false or that such note, obligation, or security is fraudulent or otherwise worthless.~~

(2) ~~A It is unlawful for any person may not to knowingly execute, or attempt to execute, a scheme or artifice to defraud a money services business transmitter or authorized vendor, or to obtain any of the moneys, funds, credits, assets, securities, or other property owned by, or under the custody or control of, a money services business transmitter or authorized vendor, by means of false or fraudulent pretenses, representations, or promises.~~

(3) ~~Any person who violates any provision of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

(4) ~~Any person who willfully violates any provision of s. 560.403, s. 560.404, s. 560.405, or s. 560.407 commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

Section 9. Section 560.113, Florida Statutes, is amended to read:

~~560.113 Injunctions; receiverships; restitution.—Whenever a violation of the code is threatened or impending and such violation will cause substantial injury to any person, the circuit court has jurisdiction to hear any complaint filed by the office and, upon proper showing, to issue an injunction restraining such violation or granting other such appropriate relief.~~

(1) If the office determines that any person has engaged in or is about to engage in any action that is a violation of this chapter or related rules, the office may, in addition to or in lieu of other remedies, bring an action on behalf of the state in the circuit court against the person and any other person acting in concert with such person to enjoin such person from engaging in such act. The office may apply for, and on due showing be entitled to have issued, the court's subpoena requiring the appearance of the person and her or his employees, associated persons, or agents and the production of any documents, books, or records that may appear necessary for the hearing of the petition, and to testify or give evidence concerning the acts complained of.

(2) In addition to, or in lieu of, the enforcement of a temporary restraining order, temporary injunction, or permanent injunction against the person, the court may, upon application of the office, impound and appoint a receiver or administrator for the property, assets, and business of the defendant, including, but not limited to, any related books, records, documents, or papers. The receiver or administrator shall have all powers and duties conferred by the court as to the custody, collection, administration, winding up, and liquidation of the property and business. The court may issue orders and decrees staying all pending suits and enjoining any further suits affecting the receiver's or administrator's custody or possession of the property, assets, and business or may, with the consent of the presiding judge of the circuit, require that all such suits be assigned to the judge appointing the receiver or administrator.

(3) In addition to, or in lieu of, any other remedies provided under this chapter, the office may apply to the court hearing the matter for an order directing the defendant to make restitution of those sums shown by the office to have been obtained in violation of this chapter. Such restitution shall, at the option of the court, be payable to the administrator or receiver appointed under this section or directly to the persons whose assets were obtained in violation of this chapter.

Section 10. Section 560.114, Florida Statutes, is amended to read:

560.114 Disciplinary actions; penalties.—

(1) The following actions by a money services business, authorized vendor, or affiliated party 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 a license any registration previously issued pursuant to the code, or the taking of any other action within the authority of the office pursuant to this chapter the code:

(a) Failure to comply with any provision of this chapter or related the code, ~~any rule or order adopted pursuant thereto~~, or any written agreement entered into with the office.

(b) Fraud, misrepresentation, deceit, or gross negligence in any transaction by a involving money services business transmission, regardless of reliance thereon by, or damage to, a ~~money transmitter~~ customer.

(c) Fraudulent misrepresentation, circumvention, or concealment of any matter that must required to be stated or furnished to a money transmitter customer pursuant to this chapter the code, regardless of reliance thereon by, or damage to, such customer.

(d) False, deceptive, or misleading advertising.

(e) Failure to maintain, preserve, ~~and~~ keep available for examination, and produce all books, accounts, files, or other documents required by this chapter or related rules or orders the code, ~~by any rule or order adopted pursuant to the code~~, by 31 C.F.R. ss. 103.20, 103.22, 103.23, 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.

(f) Refusing to allow ~~Refusal to permit~~ the examination or inspection of books, accounts, files, or other documents and records in an investigation or examination by the office, pursuant to this chapter the provisions of the code, or to comply with a subpoena issued by the office.

(g) Failure to pay a judgment recovered in any court in this state by a claimant in an action arising out of a money transmission transaction within 30 days after the judgment becomes final.

(h) Engaging in an act prohibited under or practice proscribed by s. 560.111.

(i) Insolvency ~~or operating in an unsafe and unsound manner~~.

(j) Failure by a money services business transmitter to remove an affiliated ~~a money transmitter-affiliated~~ party after the office has issued and served upon the money services business transmitter a final order setting forth a finding that the affiliated money transmitter-affiliated party has violated a any provision of this chapter the code.

(k) Making a any material misstatement, or misrepresentation, or omission or committing any fraud in an initial or renewal application for license, any amendment to such application, or application for the appointment of an authorized vendor registration.

(l) Committing any act that results resulting in a license an application for registration, or a registration or its equivalent, to practice any profession or occupation being denied, suspended, revoked, or otherwise acted against by a licensing registering authority in any jurisdiction or a finding by an appropriate regulatory body of engaging in unlicensed activity as a money transmitter within any jurisdiction.

(m) Being the subject of final agency action or its equivalent, issued by an appropriate regulator, for engaging in unlicensed activity as a money services business or deferred presentment provider in any jurisdiction.

~~(n)~~(m) Committing any act resulting in a ~~license registration~~ or its equivalent, or an application for registration, to practice any profession or occupation being denied, suspended, ~~revoked~~, or otherwise acted against by a ~~licensing registering~~ authority in any jurisdiction for a violation of 18 U.S.C. s. 1956, 18 U.S.C. s. 1957, 18 U.S.C. s. 1960, 31 U.S.C. s. 5324, or any other law or, rule, or regulation of another state or of the United States relating to a money services business, deferred presentment provider, the business of money transmission or usury that which may cause the denial, suspension, or revocation of a money services business or deferred presentment provider transmitter license or its equivalent or registration in such jurisdiction.

~~(o)~~(n) Having been convicted of or found guilty of, or entered a plea of having pleaded guilty or nolo contendere to, any felony or crime punishable by imprisonment of 1 year or more under the law of any state or of the United States which involves fraud, moral turpitude, or dishonest dealing, regardless of adjudication without regard to whether a judgment of conviction has been entered by the court.

~~(p)~~(o) Having been convicted of or found guilty of, or entered a plea of having pleaded guilty or nolo contendere to, a crime under 18 U.S.C. s. 1956 or 31 U.S.C. s. 5324, regardless of adjudication without regard to whether a judgment of conviction has been entered by the court.

~~(q)~~(p) Having been convicted of or found guilty of, or entered a plea of having pleaded guilty or nolo contendere to, misappropriation, conversion, or unlawful withholding of moneys belonging that belong to others, regardless of adjudication and were received in the conduct of the business of the money transmitter.

~~(r)~~(q) Failure to inform the office in writing within 30 15 days after having pled pleading guilty or nolo contendere to, or being convicted or found guilty of, any felony or crime punishable by imprisonment of 1 year or more under the law of any state or of the United States, or of any crime involving fraud, moral turpitude, or dishonest dealing, without regard to whether a judgment of conviction has been entered by the court.

~~(s)~~(r) Aiding, assisting, procuring, advising, or abetting any person in violating a provision of this chapter code or any order or rule of the office or commission.

~~(t)~~(s) Failure to timely pay any fee, charge, or cost imposed or assessed fine under this chapter the code.

(u) Failing to pay a fine assessed by the office within 30 days after the due date as stated in a final order.

~~(v)~~(t) Failure to pay any judgment entered by any court within 30 days after the judgment becomes final.

~~(u) Engaging or holding oneself out to be engaged in the business of a money transmitter without the proper registration.~~

~~(v) Any action that would be grounds for denial of a registration or for revocation, suspension, or restriction of a registration previously granted under part III of this chapter.~~

~~(w) Failure to pay any fee, charge, or fine under the code.~~

~~(w)(x) Engaging or advertising engagement in the business of a money services business or deferred presentment provider transmitter without a license registration, unless the person is exempted from licensure the registration requirements of the code.~~

~~(x)(y) Payment to the office for a license or other fee, charge, cost, or fine permit with a check or electronic transmission of funds that is dishonored by the applicant's or licensee's financial institution.~~

~~(y) Violations of 31 C.F.R. ss. 103.20, 103.22, 103.23, 103.27, 103.28, 103.29, 103.33, 103.37, 103.41, and 103.125, and United States Treasury Interpretative Release 2004-1.~~

~~(z) Any practice or conduct that creates the likelihood of a material loss, insolvency, or dissipation of assets of a money services business or otherwise materially prejudices the interests of its customers.~~

(2) The office may immediately suspend the license of any money services business if the money services business fails to provide to the office, upon written request, any of the records required by ss. 560.123, 560.1235, 560.211, and 560.310. The suspension may be rescinded if the licensee submits the requested records to the office. For purposes of s. 120.60(6), failure to provide any of the above-mentioned records constitutes immediate and serious danger to the public health, safety, and welfare.

(3) The office may deny licensure if the applicant or an affiliated party is the subject of a pending criminal prosecution or governmental enforcement action in any jurisdiction until the conclusion of the prosecution or action.

(4)(2) The office may issue a cease and desist order or removal order, suspend or revoke a license any previously issued registration, or take any other action within the authority of the office against a licensee money transmitter based on any fact or condition that exists and that, if it had existed or been known to exist at the time of license application the money transmitter applied for registration, would have been grounds for license denial of registration.

(5)(3) A Each money services business licensed under part II of this chapter transmitter is responsible for any act of its authorized vendors if the money services business transmitter should have known of the act or had if the money transmitter has actual knowledge that such act is a violation of this chapter, the code and the money services business transmitter will fully allowed the such act to continue. Such responsibility is limited to

conduct engaged in by the authorized vendor pursuant to the authority granted to it by the money services business transmitter.

~~(6)(4)~~ If a license registration granted under this chapter code expires or is surrendered by the licensee registrant during the pendency of an administrative action under this code, the proceeding may continue as if the license is registration were still in effect.

(7) The office may, in addition to or in lieu of the denial, suspension, or revocation of a license, impose a fine of at least \$1,000 but not more than \$10,000 for each violation of this chapter.

(8) In addition to any other provision of this chapter, the office may impose a fine of up to \$1,000 per day for each day that a person engages in the business of a money services business or deferred presentment provider without being licensed.

Section 11. Section 560.1141, Florida Statutes, is created to read:

560.1141 Disciplinary guidelines.—

(1) The commission shall adopt by rule disciplinary guidelines applicable to each ground for disciplinary action that may be imposed by the office.

(2) The disciplinary guidelines shall specify a meaningful range of designated penalties based upon the severity and repetition of specific offenses and that distinguish minor violations from those that endanger the public health, safety, or welfare; that provide reasonable and meaningful notice to the public of likely penalties that may be imposed for proscribed conduct; and that ensure that such penalties are imposed in a consistent manner by the office.

(3) The commission shall adopt by rule mitigating and aggravating circumstances that allow the office to impose a penalty other than that provided for in the guidelines, and for variations and a range of penalties permitted under such circumstances.

Section 12. Section 560.115, Florida Statutes, is amended to read:

560.115 Surrender of license registration.—A licensee Any money transmitter registered pursuant to the code may voluntarily surrender its license registration at any time by giving written notice to the office.

Section 13. Section 560.116, Florida Statutes, is amended to read:

560.116 Civil immunity.—Any person having reason to believe that a provision of this chapter the code is being violated, or has been violated, or is about to be violated, may file a complaint with the office setting forth the details of the alleged violation. Such person is immune An Immunity from civil liability is hereby granted to any person who furnishes such information, unless the information provided is false and has been provided the person providing the information does so with reckless disregard for the truth.

Section 14. Section 560.118, Florida Statutes, is amended to read:

560.118 Examinations, Reports, and internal audits; penalty.—

~~(1)(a) The office may conduct an examination of a money transmitter or authorized vendor by providing not less than 15 days' advance notice to the money transmitter or authorized vendor. However, if the office suspects that the money transmitter or authorized vendor has violated any provisions of this code or any criminal laws of this state or of the United States or is engaging in an unsafe and unsound practice, the office may, at any time without advance notice, conduct an examination of all affairs, activities, transactions, accounts, business records, and assets of any money transmitter or any money transmitter-affiliated party for the protection of the public. For the purpose of examinations, the office may administer oaths and examine a money transmitter or any of its affiliated parties concerning their operations and business activities and affairs. The office may accept an audit or examination from any appropriate regulatory agency or from an independent third party with respect to the operations of a money transmitter or an authorized vendor. The office may also make a joint or concurrent examination with any state or federal regulatory agency. The office may furnish a copy of all examinations made of such money transmitter or authorized vendor to the money transmitter and any appropriate regulatory agency provided that such agency agrees to abide by the confidentiality provisions as set forth in chapter 119.~~

~~(b) Persons subject to this chapter who are examined shall make available to the office or its examiners the accounts, records, documents, files, information, assets, and matters which are in their immediate possession or control and which relate to the subject of the examination. Those accounts, records, documents, files, information, assets, and matters not in their immediate possession shall be made available to the office or the office's examiners within 10 days after actual notice is served on such persons.~~

~~(c) The audit of a money transmitter required under this section may be performed by an independent third party that has been approved by the office or by a certified public accountant authorized to do business in the United States. The examination of a money transmitter or authorized vendor required under this section may be performed by an independent third party that has been approved by the office or by a certified public accountant authorized to do business in the United States. The cost of such an independent examination or audit shall be directly borne by the money transmitter or authorized vendor.~~

~~(2)(a) Annual financial audit reports must that are required to be filed with the office pursuant to this chapter or related rules under the code or any rules adopted thereunder must be audited by an independent third party that has been approved by the office or by a certified public accountant authorized to do business in the United States. The licensee money transmitter or authorized vendor shall directly bear the cost of the audit. This paragraph does not apply to any seller of payment instruments who can prove to the satisfaction of the office that it has a combined total of fewer~~

than 50 employees and authorized vendors or that its annual payment instruments issued from its activities as a payment instrument seller are less than \$200,000.

~~(2)(b) Each licensee must submit~~ The commission may, by rule, require each money transmitter or authorized vendor to submit quarterly reports to the office in a format and include information as specified by rule. The rule commission may require the that each report to contain a declaration by an officer, or any other responsible person authorized to make such declaration, that the report is true and correct to the best of her or his knowledge and belief. Such report must include such information as the commission by rule requires for that type of money transmitter.

~~(c) The office may levy an administrative fine of up to \$100 per day for each day the report is past due, unless it is excused for good cause. In excusing any such administrative fine, the office may consider the prior payment history of the money transmitter or authorized vendor.~~

~~(3) Any person who willfully violates this section or fails to comply with any lawful written demand or order of the office made under this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

Section 15. Section 560.119, Florida Statutes, is transferred, renumbered as section 560.144, Florida Statutes, and amended to read:

560.144 560.119 Deposit of fees and assessments.—~~License~~ The application fees, license registration renewal fees, late payment penalties, civil penalties, administrative fines, and other fees, costs, or penalties provided for in this chapter the code shall, in all cases, be paid directly to the office, which shall deposit such proceeds into the Regulatory Trust Fund, and use the proceeds to pay the costs of the office as necessary to carry out its responsibilities under this chapter. Each year, the Legislature shall appropriate from the trust fund to the office sufficient moneys to pay the office's costs for administration of the code. The Regulatory Trust Fund is subject to the service charge imposed pursuant to chapter 215.

Section 16. Section 560.121, Florida Statutes, is amended to read:

560.121 Access to records; record retention; penalties ~~limited restrictions upon public access.~~—

(1)(a) Orders of courts or of administrative law judges for the production of confidential records or information must ~~shall~~ provide for inspection in camera by the court or the administrative law judge; and, if after the court or administrative law judge determines has made a determination that the documents requested are relevant or would likely lead to the discovery of admissible evidence, ~~said documents shall be subject to further orders by the court or the administrative law judge~~ must issue further orders to protect the confidentiality of the documents ~~thereof~~. Any order directing the release of information is ~~shall be~~ immediately reviewable, and a petition by the office for review of the such order shall automatically stay further proceedings in the trial court or the administrative hearing until the disposition of

~~the such~~ petition by the reviewing court. If ~~any other party files such~~ A petition for review of the order filed by any other party shall, it will operate as a stay of ~~the such~~ proceedings only upon order of the reviewing court.

~~(2)(b)~~ Confidential records and information furnished pursuant to a legislative subpoena ~~must~~ shall be kept confidential by the legislative body or committee which receives the records or information, except in cases a case involving ~~the~~ investigation of charges against a public official subject to impeachment or removal, and then disclosure of such information shall be only to the extent determined ~~to be necessary~~ by the legislative body or committee ~~to be necessary~~.

~~(3)(2)~~ The commission may prescribe by rule the minimum information that must be shown in the books, accounts, records, and documents of licensees for purposes of enabling the office to determine the licensee's compliance with this chapter. In addition, the commission may prescribe by rule requirements for the destruction of books, accounts, records, and documents retained by the licensee after completion of the time period specified in this subsection. Examination reports, investigatory records, applications, and related information compiled by the office, or photographic copies thereof, ~~must~~ shall be retained by the office for a period of at least ~~5~~ 3 years after following the date that the examination or investigation ceases to be active. Application records, and related information compiled by the office, or photographic copies thereof, ~~must~~ shall be retained by the office for a period of at least ~~5~~ 2 years ~~after following~~ the date that the license registration ceases to be active.

~~(3)~~ A copy of any document on file with the office which is certified by the office as being a true copy may be introduced in evidence as if it were the original. The commission shall establish a schedule of fees for preparing true copies of documents.

(4) Any person who willfully discloses information made confidential by this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 17. Section 560.123, Florida Statutes, is amended to read:

560.123 Florida Control of Money Laundering in the Money Services Business Act Transmitters' Code; reports of transactions involving currency or monetary instruments; when required; purpose; definitions; penalties; corpus delicti.—

(1) This section may be cited as the "Florida Control of Money Laundering in Money Services Business Transmitters Act."

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

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

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

~~(b)(c)~~ A Any money services business transmitter 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 specified 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 transmitter, 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)(3)~~ A money services business transmitters must comply with adhere to the money laundering, enforcement, and reporting provisions of s. 655.50, relating to reports of transactions involving currency transactions and payment monetary instruments, and of chapter 896, concerning offenses relating to financial transactions.

~~(5)(4)~~ In enforcing this section, the commission and office shall acknowledge and take into consideration the requirements of Title 31, United States Code, in order both to reduce the burden of fulfilling duplicate requirements and to acknowledge the economic advantage of having similar reporting and recordkeeping requirements between state and federal regulatory authorities.

~~(5)(a)~~ Each money transmitter must file a report with the office of the record required by this section. Each record filed pursuant to this section must be filed at such time and contain such information as the commission requires by rule.

~~(b) The timely filing of the report required by 31 U.S.C. s. 5313, with the appropriate federal agency is 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.~~

(6) The office must retain a copy of all reports received under subsection ~~(3)~~ (5) for a minimum of ~~5~~ 3 calendar years after receipt of the report. However, if a report or information contained in a report is known by the office to be the subject of an existing criminal proceeding, the report must be retained for a minimum of 10 calendar years after ~~from~~ the date of receipt.

(7) In addition to any other powers conferred upon the office to enforce and administer this chapter ~~the code~~, the office may:

(a) Bring an action in any court of competent jurisdiction to enforce or administer this section. In such action, the office may seek award of any civil penalty authorized by law and any other appropriate relief at law or equity.

(b) Issue and serve upon a person an order requiring the ~~such~~ person to cease and desist and take corrective action if ~~whenever~~ the office finds that the ~~such~~ person is violating, has violated, or is about to violate any provision of this section or chapter 896; any rule or order adopted under this section or chapter 896; or any written agreement related to this section or chapter 896 which is entered into with the office.

(c) Issue and serve upon a person an order suspending or revoking the ~~such~~ person's money services business license ~~if transmitter registration~~ whenever the office finds that the ~~such~~ person is violating, has violated, or is about to violate any provision of this section or chapter 896; any rule or order adopted under this section or chapter 896; or any written agreement related to this section or chapter 896 which is entered into with the office.

(d) Issue and serve upon any person an order of removal whenever the office finds that the ~~such~~ person is violating, has violated, or is about to violate any provision of this section or chapter 896; any rule or order adopted under this section or chapter 896; or any written agreement related to this section or chapter 896 which is entered into with the office.

(e) Impose and collect an administrative fine against any person found to have violated any provision of this section or chapter 896; any rule or order adopted under this section or chapter 896; or any written agreement related to this section or chapter 896 which is entered into with the office, of up to in an amount not exceeding \$10,000 per a day for each willful violation or \$500 per a day for each negligent violation.

(8)(a) Except as provided in paragraph (b), a person who willfully violates any provision of this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

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

1. Currency or payment instruments 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 or payment instruments 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 or payment instruments 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 ~~otherwise~~ authorized by s. 775.082, s. 775.083, or s. 775.084, a person who has been convicted of, or entered a plea of who has pleaded guilty or nolo contendere, regardless of adjudication, to having violated paragraph (b) may be sentenced to pay a fine of up to not exceeding \$250,000 or twice the value of the currency or payment instruments, 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 \$500,000 or quintuple the value of the currency or payment instruments, whichever is greater.

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

(9) In any prosecution brought pursuant to this section, the common law corpus delicti rule does not apply. The defendant's confession or admission is admissible during trial without the state having to prove the corpus delicti if the court finds in a hearing conducted outside the presence of the jury that the defendant's confession or admission is trustworthy. Before the court admits the defendant's confession or admission, the state must prove by a preponderance of the evidence that there is sufficient corroborating evidence that tends to establish the trustworthiness of the statement by the defendant. Hearsay evidence is admissible during the presentation of evidence at the hearing. In making its determination, the court may consider all relevant corroborating evidence, including the defendant's statements.

Section 18. Section 560.1235, Florida Statutes, is created to read:

560.1235 Anti-money laundering requirements.—

(1) A licensee and authorized vendor must comply with all state and federal laws and rules relating to the detection and prevention of money laundering, including, as applicable, s. 560.123, and 31 C.F.R. ss. 103.20, 103.22, 103.23, 103.27, 103.28, 103.29, 103.33, 103.37, and 103.41.

(2) A licensee and authorized vendor must maintain an anti-money laundering program in accordance with 31 C.F.R. s. 103.125. The program must be reviewed and updated as necessary to ensure that the program continues to be effective in detecting and deterring money laundering activities.

(3) A licensee must comply with United States Treasury Interpretive Release 2004-1.

Section 19. Section 560.124, Florida Statutes, is amended to read:

560.124 Sharing of information.—

~~(1) It is not unlawful for~~ Any person may ~~to provide information to a money services business transmitter, authorized vendor, law enforcement agency, prosecutorial agency, or appropriate regulator, or for any money services business transmitter, authorized vendor, law enforcement agency, prosecutorial agency, or appropriate regulator~~ may ~~to provide information to any person, information about any other person's known or suspected involvement in a violation of any state, federal, or foreign law, rule, or regulation relating to the business of a money services business or deferred present provider transmitter which has been reported to state, federal, or foreign authorities, and is not.~~

~~(2) No person shall be liable in any civil action for providing such information.~~

Section 20. Section 560.125, Florida Statutes, is amended to read:

560.125 Unlicensed activity ~~Money transmitter business by unauthorized persons; penalties.—~~

~~(1) A person other than a registered money transmitter or authorized vendor~~ may not engage in the business of a money services business or deferred presentment provider transmitter in this state unless the person is licensed or exempted from licensure under this chapter from the registration requirements of the code.

~~(2) Only a money services business licensed under part II of this chapter may appoint an authorized vendor. No person shall act as a vendor of a money transmitter when such money transmitter is subject to registration under the code but has not registered. Any such person acting as a vendor for an unlicensed money transmitter or payment instrument issuer becomes the principal thereof, and no longer merely acts as a vendor, and such person is liable to the holder or remitter as a principal money transmitter or payment instrument seller.~~

~~(3) Any person whose substantial interests are affected by a proceeding brought by the office pursuant to this chapter the code may, pursuant to s. 560.113, petition any court of competent jurisdiction to enjoin the person or activity that is the subject of the proceeding from violating any of the provisions of this section. For the purpose of this subsection, any money services business licensed under this chapter transmitter registered pursuant to the code, any person residing in this state, and any person whose principal place of business is in this state are presumed to be substantially affected. In addition, the interests of a trade organization or association are deemed substantially affected if the interests of any of its members are so affected.~~

~~(4) The office may issue and serve upon any person who violates any of the provisions of this section a complaint seeking a cease and desist order or impose an administrative fine as provided in s. 560.114 in accordance with the procedures and in the manner prescribed by s. 560.112. The office~~

may also impose an administrative fine pursuant to s. 560.117(3) against any person who violates any of the provisions of this section.

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

(a) Currency or payment instruments 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 or payment instruments 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 or payment instruments 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 ~~found guilty of or who has pleaded~~ guilty or nolo contendere, to having violated this section may be sentenced to pay a fine of up to ~~not exceeding~~ \$250,000 or twice the value of the currency or payment instruments, whichever is greater, except that on a second or subsequent violation of this section, the fine may be up to \$500,000 or quintuple the value of the currency or payment instruments, whichever is greater.

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

(8) In any prosecution brought pursuant to this section, the common law corpus delicti rule does not apply. The defendant's confession or admission is admissible during trial without the state having to prove the corpus delicti if the court finds in a hearing conducted outside the presence of the jury that the defendant's confession or admission is trustworthy. Before the court admits the defendant's confession or admission, the state must prove by a preponderance of the evidence that there is sufficient corroborating evidence that tends to establish the trustworthiness of the statement by the defendant. Hearsay evidence is admissible during the presentation of evidence at the hearing. In making its determination, the court may consider all relevant corroborating evidence, including the defendant's statements.

Section 21. Section 560.126, Florida Statutes, is amended to read:

560.126 ~~Significant events; notice~~ Required notice by licensee.—

(1) A licensee ~~Unless exempted by the office, every money transmitter~~ must provide the office with a written notice sent by registered mail within 30 days after the occurrence or knowledge of, whichever period of time is greater, any of the following events:

(a) The filing of a petition under the United States Bankruptcy Code for bankruptcy or reorganization by the licensee ~~money transmitter~~.

(b) ~~The commencement of an administrative or judicial license any registration suspension or revocation proceeding, either administrative or judicial, or the denial of a license any original registration request or a registration renewal, by any state, the District of Columbia, any United States territory, or any foreign country, in which the licensee money transmitter operates, or plans to operate, or is licensed or has registered to operate.~~

(c) ~~A felony indictment relating to a the money services transmission business or deferred presentment provider involving the licensee, its authorized vendor, or an affiliated money transmitter or a money transmitter-affiliated party of the money transmitter.~~

(d) ~~The felony conviction, guilty plea, or plea of nolo contendere, regardless of adjudication, of the licensee, its authorized vendor, or an affiliated if the court adjudicates the nolo contendere pleader guilty, or the adjudication of guilt of a money transmitter or money transmitter-affiliated party.~~

(e) ~~The interruption of any corporate surety bond required under this chapter by the code.~~

(f) ~~Any suspected criminal act, as defined by the commission by rule, perpetrated in this state relating to activities regulated under this chapter by an affiliated party against a money services business transmitter or authorized vendor.~~

(g) ~~Notification by a law enforcement or prosecutorial agency that the licensee or its authorized vendor is under criminal investigation including, but not limited to, subpoenas to produce records or testimony and warrants issued by a court of competent jurisdiction which authorize the search and seizure of any records relating to a business activity regulated under this chapter.~~

~~However, a person does not incur liability as a result of making a good faith effort to fulfill this disclosure requirement.~~

(2)(a) ~~A licensee must Each registrant under this code shall report, on a form adopted prescribed by rule of the commission, any change in the information contained in an any initial license application form, or any amendment to such application, or the appointment of an authorized vendor within thereto not later than 30 days after the change is effective.~~

(3)(b) ~~Each licensee must registrant under the code shall report any change changes in the partners, officers, members, joint venturers, directors, controlling shareholders, or responsible persons of the licensee any registrant or changes in the form of business organization by written amendment in such form and at such time as specified the commission specifies by rule.~~

(a)1. ~~If In any case in which a person or a group of persons, directly or indirectly or acting by or through one or more persons, proposes to purchase or acquire a controlling interest in a licensee, such person or group must submit an initial application for licensure registration as a money services business or deferred presentment provider transmitter before such purchase~~

or acquisition at such time and in such form as prescribed the commission prescribes by rule.

2. As used in this subsection, the term “controlling interest” means the same as described in s. 560.127 possession of the power to direct or cause the direction of the management or policies of a company whether through ownership of securities, by contract, or otherwise. Any person who directly or indirectly has the right to vote 25 percent or more of the voting securities of a company or is entitled to 25 percent or more of its profits is presumed to possess a controlling interest.

~~(b)3.~~ The Any addition of a partner, officer, member, joint venturer, director, controlling shareholder, or responsible person of the applicant who does not have a controlling interest and who has not previously complied with the applicable provisions of ss. 560.140 and 560.141 is ~~ss. 560.205 and 560.306~~ shall be subject to such provisions unless required to file an initial application in accordance with subparagraph 1. If the office determines that the licensee registrant does not continue to meet the licensure registration requirements, the office may bring an administrative action in accordance with s. 560.114 to enforce the provisions of this chapter code.

~~(c)4.~~ The commission shall adopt rules pursuant to ~~ss. 120.536(1) and 120.54~~ providing for the waiver of the license application required by this subsection if the person or group of persons proposing to purchase or acquire a controlling interest in a licensee registrant has previously complied with the applicable provisions of ~~ss. 560.140 and 560.141~~ under ss. 560.205 and 560.306 with the same legal entity or is currently licensed registered with the office under this chapter code.

Section 22. Section 560.127, Florida Statutes, is amended to read:

560.127 Control of a money services business transmitter.—A person has a controlling interest in control over a money services business transmitter if the person:

~~(1) The individual, partnership, corporation, trust, or other organization Possesses the power, directly or indirectly, to direct the management or policies of the money services business a company, whether through ownership of securities, by contract, or otherwise; A person is presumed to control a company if, with respect to a particular company, that person:~~

~~(a) Is a director, general partner, or officer exercising executive responsibility or having similar status or functions;~~

~~(2)(b) Directly or indirectly may vote 25 percent or more of a class of a voting security or sell or direct the sale of 25 percent or more of a class of voting securities; or~~

~~(3)(c) In the case of a partnership, may receive upon dissolution or has contributed 25 percent or more of the capital.~~

~~(2) The office determines, after notice and opportunity for hearing, that the person directly or indirectly exercises a controlling influence over the activities of the money transmitter.~~

Section 23. Section 560.128, Florida Statutes, is amended to read:

560.128 Customer contacts; license display ~~Consumer disclosure.~~—

(1) A money services business and authorized vendor must provide each customer with ~~Every money transmitter and authorized vendor shall provide each consumer of a money transmitter transaction~~ a toll-free telephone number for the purpose of contacting the money services business or authorized vendor or, consumer contacts; ~~However, in lieu of a such toll-free telephone number, the money transmitter or authorized vendor may provide the address and telephone number of the office~~ may be provided ~~and the Division of Consumer Services of the Department of Financial Services.~~

(2) The commission may by rule require a licensee ~~every money transmitter~~ to display its license ~~registration~~ at each location, ~~including the location of each person designated by the registrant as an authorized vendor, where the licensee the money transmitter engages in the activities authorized by the license registration.~~

Section 24. Section 560.129, Florida Statutes, is amended to read:

560.129 Confidentiality.—

(1)(a) Except as otherwise provided in this section, all information concerning an investigation or examination conducted by the office pursuant to this chapter, including any ~~customer~~ consumer complaint received by the office or the Department of Financial Services, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the investigation or examination ceases to be active. For purposes of this section, an investigation or examination is considered “active” so long as the office or any other administrative, regulatory, or law enforcement agency of any jurisdiction is proceeding with reasonable dispatch and has a reasonable good faith belief that action may be initiated by the office or other administrative, regulatory, or law enforcement agency.

(2)(b) ~~Notwithstanding paragraph (a),~~ All information obtained by the office in the course of its investigation or examination which is a trade secret, as defined in s. 688.002, or which is personal financial information shall remain confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. If any administrative, civil, or criminal proceeding against a the money services business, its authorized vendor, transmitter or an affiliated a money transmitter-affiliated party is initiated and the office seeks to use matter that a licensee registrant believes to be a trade secret or personal financial information, such records shall be subject to an in camera review by the administrative law judge, if the matter is before the Division of Administrative Hearings, or a judge of any court of this state, any other state, or the United States, as appropriate, for the purpose of determining if the matter is a trade secret or is personal financial information. If it is determined that the matter is a trade secret, the matter shall remain confidential. If it is determined that the matter is personal financial information, the matter shall remain confidential unless the administrative law judge or judge determines that, in the interests of justice, the matter should become public.

~~(3)(e)~~ If an any administrative, civil, or criminal proceeding against a the money services business, its authorized vendor, transmitter or an affiliated ~~a money transmitter-affiliated~~ party results in an acquittal or the dismissal of all of the allegations against the ~~money transmitter or a money transmitter-affiliated~~ party, upon the request of any party, the administrative law judge or the judge may order all or a portion of the record of the proceeding to be sealed, and it shall thereafter be confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

~~(4)(d)~~ Except as necessary for the office or any other administrative, regulatory, or law enforcement agency of any jurisdiction to enforce the provisions of this chapter or the law of any other state or the United States, a consumer complaint and other information concerning an investigation or examination shall remain confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution after the investigation or examination ceases to be active to the extent that disclosure would:

- ~~(a)1.~~ Jeopardize the integrity of another active investigation;
- ~~(b)2.~~ Reveal personal financial information;
- ~~(c)3.~~ Reveal the identity of a confidential source; or
- ~~(d)4.~~ Reveal investigative techniques or procedures.
- ~~(5)(2)~~ This section does not prevent or restrict:

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

(b) Furnishing records or information to an appropriate regulator or independent third party ~~or a certified public accountant~~ who has been approved by the office to conduct an examination under s. 560.1091 s. 560.118(1)(b), if the independent third party ~~or certified public accountant~~ adheres to the confidentiality provisions of this chapter the code; or

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

~~(6)(3)~~ All quarterly reports submitted by ~~a money transmitter~~ to the office under s. 560.118(2) s. 560.118(2)(b) are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

~~(4)~~ ~~Examination reports, investigatory records, applications, and related information compiled by the office, or photographic copies thereof, shall be retained by the office for a period of at least 3 years following the date that the examination or investigation ceases to be active. Application records, and related information compiled by the office, or photographic copies thereof, shall be retained by the office for a period of at least 2 years following the date that the registration ceases to be active.~~

(7)(5) Any person who willfully discloses information made confidential by this section commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

Section 25. Section 560.140, Florida Statutes, is created to read:

560.140 Licensing standards.—To qualify for licensure as a money services business under this chapter, an applicant must:

(1) Demonstrate to the office the character and general fitness necessary to command the confidence of the public and warrant the belief that the money services business or deferred presentment provider shall be operated lawfully and fairly.

(2) Be legally authorized to do business in this state.

(3) Be registered as a money services business with the Financial Crimes Enforcement Network as required by 31 C.F.R. s. 103.41, if applicable.

(4) Have an anti-money laundering program in place which meets the requirements of 31 C.F.R. s. 103.125.

(5) Provide the office with all the information required under this chapter and related rules.

Section 26. Section 560.141, Florida Statutes, is created to read:

560.141 License application.—

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

(a) Submit an application to the office on forms prescribed by rule which includes the following information:

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

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

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

4. A description of the organizational structure of the applicant, including the identity of any parent or subsidiary of the applicant, and the disclosure of whether any parent or subsidiary is publicly traded.

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

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

7. The location at which the applicant proposes to establish its principal place of business and any other location, including branch offices and authorized vendors operating in this state. For each branch office identified and each authorized vendor appointed, the applicant shall include the non-refundable fee required by s. 560.143.

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

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

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

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

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

(b) In addition to the application form, submit:

1. A nonrefundable application fee as provided in s. 560.143.

2. A fingerprint card for each of the persons listed in subparagraph (a)3. unless the applicant is a publicly traded corporation, or is exempted from this chapter under s. 560.104(1). The fingerprints must be taken by an authorized law enforcement agency. The office shall submit the fingerprints to the Department of Law Enforcement for state processing and the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigations for federal processing. The cost of the fingerprint processing may be borne by the office, the employer, or the person subject to the criminal records background check. The office shall screen the background results to determine if the applicant meets licensure requirements. As used in this section, the term "publicly traded" means a stock is currently traded on a national securities exchange registered with the federal Securities and Exchange Commission or traded on an exchange in a country other than the United States regulated by a regulator equivalent to the Securities and Exchange Commission and the disclosure and reporting requirements of such regulator are substantially similar to those of the commission.

3. A copy of the applicant's written anti-money laundering program required under 31 C.F.R. s. 103.125.

4. Within the time allotted by rule, any information needed to resolve any deficiencies found in the application.

(2) If the office determines that the applicant meets the qualifications and requirements of this chapter, the office shall issue a license to the applicant. A license may not be issued for more than 2 years.

(a) A license issued under part II of this chapter shall expire on April 30 of the second year following the date of issuance of the license unless during such period the license is surrendered, suspended, or revoked.

(b) A license issued under part III of this chapter shall expire on December 31 of the second year following the date of issuance of the license unless during such period the license is surrendered, suspended, or revoked.

Section 27. Section 560.142, Florida Statutes, is created to read:

560.142 License renewal.—

(1) A license may be renewed for a subsequent 2-year period by furnishing such application as required by rule, together with the payment of a nonrefundable renewal fee as provided under s. 560.143, on or before the license expiration date, or for the remainder of any such period without proration following the date of license expiration.

(2) In addition to the renewal fee, each part II licensee must pay a 2-year nonrefundable renewal fee as provided in s. 560.143 for each authorized vendor or location operating within this state.

(3) A licensee who has on file with the office a declaration of intent to engage in deferred presentment transactions may renew a declaration upon license renewal by submitting a nonrefundable deferred presentment provider renewal fee as provided in s. 560.143.

(4) If a license or declaration of intent to engage in deferred presentment transactions expires, the license or declaration of intent may be reinstated only if a renewal application or declaration of intent, all required renewal fees, and any applicable late fees are received by the office within 60 days after expiration. If not submitted within 60 days, the license or declaration on intent expires and a new license application or declaration of intent must be filed with the office pursuant to this chapter.

(5) The commission may adopt rules to administer this section.

Section 28. Section 560.143, Florida Statutes, is created to read:

560.143 Fees.—

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

- (a) Under part II \$375.
- (b) Part III \$188.
- (c) Per branch office \$38.

- (d) For each appointment of an authorized vendor \$38.
- (e) Declaration as a deferred presentment provider \$1,000.
- (f) Fingerprint fees as prescribed by rule.

(g) License application fees for branch offices and authorized vendors are limited to \$20,000 when such fees are assessed as a result of a change in controlling interest as defined in s. 560.127.

(2) LICENSE RENEWAL FEES.—The applicable non-refundable license renewal fees must accompany a renewal of licensure:

- (a) Part II \$750.
- (b) Part III \$375.
- (c) Per branch office \$38.
- (d) For each appointment of an authorized vendors \$38.
- (e) Declaration as a deferred presentment provider \$1,000.

(f) Renewal fees for branch offices and authorized vendors are limited to \$20,000 biennially.

(3) LATE LICENSE RENEWAL FEES.—

- (a) Part II \$500.
- (b) Part III \$250.
- (c) Declaration as a deferred presentment provider \$500.

Section 29. Section 560.203, Florida Statutes, is amended to read:

560.203 Exemptions from licensure.—Authorized vendors of a licensee registrant acting within the scope of authority conferred by the licensee are registrant shall be exempt from licensure but are having to register pursuant to the code but shall otherwise be subject to the its provisions of this chapter.

Section 30. Section 560.204, Florida Statutes, is amended to read:

560.204 License required Requirement of registration.—

(1) Unless exempted, a No person may not shall engage in for consideration, or nor in any manner advertise that they engage, in, the selling or issuing of payment instruments or in the activity of a money funds transmitter, for compensation, without first obtaining a license registration under the provisions of this part. For purposes of this section, “compensation” includes profit or loss on the exchange of currency.

(2) A licensee under this part person registered pursuant to this part is permitted to engage in the activities authorized by this part. A person

registered pursuant to this part may also engage in the activities authorized under part III of this chapter without the imposition of any additional licensing fees and is exempt from the registration fee required by s. 560.307.

Section 31. Section 560.205, Florida Statutes, is amended to read:

560.205 Additional license application requirements Qualifications of applicant for registration; contents.—In addition to the license application requirements under part I of this chapter, an applicant seeking a license under this part must also submit to the office:

(1) A sample authorized vendor contract, if applicable.

(2) A sample form of payment instrument, if applicable.

(3) Documents demonstrating that the net worth and bonding requirements specified in s. 560.209 have been fulfilled.

(4) A copy of the applicant's financial audit report for the most recent fiscal year. If the applicant is a wholly owned subsidiary of another corporation, the financial audit report on the parent corporation's financial statements shall satisfy this requirement.

~~(1) To qualify for registration under this part, an applicant must demonstrate to the office such character and general fitness as to command the confidence of the public and warrant the belief that the registered business will be operated lawfully and fairly. The office may investigate each applicant to ascertain whether the qualifications and requirements prescribed by this part have been met. The office's investigation may include a criminal background investigation of all controlling shareholders, principals, officers, directors, members, and responsible persons of a funds transmitter and a payment instrument seller and all persons designated by a funds transmitter or payment instrument seller as an authorized vendor. Each controlling shareholder, principal, officer, director, member, and responsible person of a funds transmitter or payment instrument seller, unless the applicant is a publicly traded corporation as defined by the commission by rule, a subsidiary thereof, or a subsidiary of a bank or bank holding company organized and regulated under the laws of any state or the United States, shall file a complete set of fingerprints. A fingerprint card submitted to the office must be taken by an authorized law enforcement agency. The office shall submit the fingerprints to the Department of Law Enforcement for state processing, and the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for state and federal processing. The cost of the fingerprint processing may be borne by the office, the employer, or the person subject to the background check. The Department of Law Enforcement shall submit an invoice to the office for the fingerprints received each month. The office shall screen the background results to determine if the applicant meets licensure requirements. The commission may waive by rule the requirement that applicants file a set of fingerprints or the requirement that such fingerprints be processed by the Department of Law Enforcement or the Federal Bureau of Investigation.~~

~~(2) Each application for registration must be submitted under oath to the office on such forms as the commission prescribes by rule and must be accompanied by a nonrefundable application fee. Such fee may not exceed \$500 for each payment instrument seller or funds transmitter and \$50 for each authorized vendor or location operating within this state. The application must contain such information as the commission requires by rule, including, but not limited to:~~

~~(a) The name and address of the applicant, including any fictitious or trade names used by the applicant in the conduct of its business.~~

~~(b) The history of the applicant's material litigation, criminal convictions, pleas of nolo contendere, and cases of adjudication withheld.~~

~~(c) A description of the activities conducted by the applicant, the applicant's history of operations, and the business activities in which the applicant seeks to engage in this state.~~

~~(d) A sample authorized vendor contract, if applicable.~~

~~(e) A sample form of payment instrument, if applicable.~~

~~(f) The name and address of the clearing financial institution or financial institutions through which the applicant's payment instruments will be drawn or through which such payment instruments will be payable.~~

~~(g) Documents revealing that the net worth and bonding requirements specified in s. 560.209 have been or will be fulfilled.~~

~~(3) Each application for registration by an applicant that is a corporation shall contain such information as the commission requires by rule, including, but not limited to:~~

~~(a) The date of the applicant's incorporation and state of incorporation.~~

~~(b) A certificate of good standing from the state or country in which the applicant was incorporated.~~

~~(c) A description of the corporate structure of the applicant, including the identity of any parent or subsidiary of the applicant, and the disclosure of whether any parent or subsidiary is publicly traded on any stock exchange.~~

~~(d) The name, social security number, business and residence addresses, and employment history for the past 5 years for each executive officer, each director, each controlling shareholder, and the responsible person who will be in charge of all the applicant's business activities in this state.~~

~~(e) The history of material litigation and criminal convictions, pleas of nolo contendere, and cases of adjudication withheld for each officer, each director, each controlling shareholder, and the responsible person who will be in charge of the applicant's registered activities.~~

~~(f) Copies of the applicant's audited financial statements for the current year and, if available, for the immediately preceding 2-year period. In cases~~

where the applicant is a wholly owned subsidiary of another corporation, the parent's consolidated audited financial statements may be submitted to satisfy this requirement. An applicant who is not required to file audited financial statements may satisfy this requirement by filing unaudited financial statements verified under penalty of perjury, as provided by the commission by rule.

(g) ~~An applicant who is not required to file audited financial statements may file copies of the applicant's unconsolidated, unaudited financial statements for the current year and, if available, for the immediately preceding 2-year period.~~

(h) ~~If the applicant is a publicly traded company, copies of all filings made by the applicant with the United States Securities and Exchange Commission, or with a similar regulator in a country other than the United States, within the year preceding the date of filing of the application.~~

(4) ~~Each application for registration submitted to the office by an applicant that is not a corporation shall contain such information as the commission requires by rule, including, but not limited to:~~

(a) ~~Evidence that the applicant is registered to do business in this state.~~

(b) ~~The name, business and residence addresses, personal financial statement and employment history for the past 5 years for each individual having a controlling ownership interest in the applicant, and each responsible person who will be in charge of the applicant's registered activities.~~

(c) ~~The history of material litigation and criminal convictions, pleas of nolo contendere, and cases of adjudication withheld for each individual having a controlling ownership interest in the applicant and each responsible person who will be in charge of the applicant's registered activities.~~

(d) ~~Copies of the applicant's audited financial statements for the current year, and, if available, for the preceding 2 years. An applicant who is not required to file audited financial statements may satisfy this requirement by filing unaudited financial statements verified under penalty of perjury, as provided by the commission by rule.~~

(5) ~~Each applicant shall designate and maintain an agent in this state for service of process.~~

Section 32. Section 560.208, Florida Statutes, is amended to read:

560.208 Conduct of business.—In addition to the requirements specified in s. 560.140, a licensee under this part:

(1) ~~A registrant~~ May conduct its business at one or more locations within this state through branches or by means of authorized vendors, as designated by the licensee ~~registrant~~, including the conduct of business through electronic transfer, such as by the telephone or the Internet.

(2) Notwithstanding and without violating s. 501.0117, a registrant may charge a different price for a money transmitter funds transmission ~~service~~

based on the mode of transmission used in the transaction ~~as,~~ so long as the price charged for a service paid for with a credit card is not more greater than the price charged when ~~the~~ that service is paid for with currency or other similar means accepted within the same mode of transmission.

(3) Is responsible for the acts of its authorized vendors in accordance with the terms of its written contract with the vendor.

(4) Shall place assets that are the property of a customer in a segregated account in a federally insured financial institution and shall maintain separate accounts for operating capital and the clearing of customer funds.

(5) Shall, in the normal course of business, ensure that money transmitted is available to the designated recipient within 10 business days after receipt.

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

~~(2) Within 60 days after the date a registrant either opens a location within this state or authorizes an authorized vendor to operate on the registrant's behalf within this state, the registrant shall notify the office on a form prescribed by the commission by rule. The notification shall be accompanied by a nonrefundable \$50 fee for each authorized vendor or location. Each notification shall also be accompanied by a financial statement demonstrating compliance with s. 560.209(1), unless compliance has been demonstrated by a financial statement filed with the registrant's quarterly report in compliance with s. 560.118(2). The financial statement must be dated within 90 days of the date of designation of the authorized vendor or location. This subsection shall not apply to any authorized vendor or location that has been designated by the registrant before October 1, 2001.~~

~~(3) Within 60 days after the date a registrant closes a location within this state or withdraws authorization for an authorized vendor to operate on the registrant's behalf within this state, the registrant shall notify the office on a form prescribed by the commission by rule.~~

Section 33. Section 560.2085, Florida Statutes, is created to read:

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

(1) Within 60 days after an authorized vendor commences business, file with the office such information as prescribed by rule together with the nonrefundable appointment fee as provided by s. 560.143. This requirement applies to vendors who are also terminated within the 60-day period.

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

(a) Sets forth the nature and scope of the relationship between the licensee and the authorized vendor, including the respective rights and responsibilities of the parties; and

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

1. Report to the licensee, immediately upon discovery, the theft or loss of currency received for a transmission or payment instrument;

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 or payment instruments 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 money received for transmissions accepted or payment instruments sold on behalf of the licensee with the money or property of the authorized vendor, except for making change in the ordinary course of the vendor's business, and ensure that the money is accounted for at the end of the business day;

6. Consent to examination or investigation by the office;

7. Adhere to the applicable state and federal laws and rules pertaining to a money services business; and

8. Provide such other information or disclosure as may be required by rule.

(3) Develop and implement written policies and procedures to monitor compliance with applicable state and federal law by its authorized vendors.

Section 34. Section 560.209, Florida Statutes, is amended to read:

560.209 Net worth; corporate surety bond; collateral deposit in lieu of bond.—

(1) A licensee must ~~Any person engaging in a registered activity shall~~ have a net worth of at least \$100,000 ~~computed according to generally accepted accounting principles. A licensee operating in~~ Applicants proposing to conduct registered activities at more than one location must ~~shall~~ have an additional net worth of \$10,000 ~~\$50,000~~ per location in this state, up as applicable, to a maximum of \$2 million ~~\$500,000~~. The required net worth must be maintained at all times.

(2) A licensee must obtain an annual financial audit report, which must be submitted to the office within 120 days after the end of the licensee's fiscal year end, as disclosed to the office. If the applicant is a wholly owned subsidiary of another corporation, the financial audit report on the parent corporation's financial statements shall satisfy this requirement.

(3)(2) Before the office may issue a license under this part ~~registration,~~ the applicant must provide to the office a corporate surety bond, issued by

a bonding company or insurance company authorized to do business in this state.

(a) ~~The corporate surety bond shall be in an such amount as specified may be determined by commission rule, but may shall not be less than \$50,000 or exceed \$2 million ~~\$250,000~~. The rule shall provide allowances for the financial condition, number of locations, and anticipated volume of the licensee. However, ~~the commission and office may consider extraordinary circumstances, such as the registrant's financial condition, the number of locations, and the existing or anticipated volume of outstanding payment instruments or funds transmitted, and require an additional amount above~~ \$250,000, up to \$500,000.~~

(b) The corporate surety bond ~~must~~ shall be in a form satisfactory to the office and shall run to the state for the benefit of any claimants in this state against the applicant or its authorized vendors to secure the faithful performance of the obligations of the applicant and its ~~authorized~~ vendors with respect to the receipt, handling, transmission, and payment of funds. The aggregate liability of the corporate surety bond ~~may not in no event~~ shall exceed the principal sum of the bond. ~~Such~~ Claimants against the applicant or its authorized vendors may ~~themselves~~ bring suit directly on the corporate surety bond, or the Department of Legal Affairs may bring suit ~~thereon~~ on behalf of the ~~such~~ claimants, ~~in either one action or in successive actions.~~

(c) ~~The~~ A corporate surety bond filed ~~with the office for purposes of compliance with this section~~ may not be canceled by either the licensee ~~registrant~~ or the corporate surety except upon written notice to the office by registered ~~or certified~~ mail with return receipt requested. A cancellation ~~may shall~~ not take effect until ~~less than~~ 30 days after receipt by the office of the ~~such~~ written notice.

(d) The corporate surety must, within 10 days after it pays any claim ~~to any claimant~~, give written notice to the office by registered ~~or certified~~ mail of such payment with details sufficient to identify the claimant and the claim or judgment ~~so~~ paid.

(e) ~~If Whenever~~ the principal sum of the ~~such~~ bond is reduced by one or more recoveries or payments, the licensee ~~registrant~~ must furnish a new or additional bond so that the total or aggregate principal sum of the ~~such~~ bond equals the sum required pursuant to paragraph (a) by the commission. Alternatively, a licensee ~~registrant~~ may furnish an endorsement executed by the corporate surety reinstating the bond to the required principal sum thereof.

~~(4)(3)~~ In lieu of a ~~such~~ corporate surety bond, or of any portion of the principal sum ~~thereof~~ required by this section, the applicant may deposit collateral cash, securities, or alternative security devices as provided by rule approved by the commission, with a ~~any~~ federally insured financial institution.

(a) Acceptable collateral deposit items ~~in lieu of a bond~~ include cash and interest-bearing stocks and bonds, notes, debentures, or other obligations of

the United States or any agency or instrumentality thereof, or guaranteed by the United States, or of this state.

(b) The collateral deposit must be in an aggregate amount, based upon principal amount or market value, whichever is lower, of at least not less than the amount of the required corporate surety bond or portion thereof.

(c) Collateral deposits ~~must made under this subsection~~ shall be pledged to the office and held by the insured financial institution to secure the same obligations as ~~would~~ the corporate surety bond, but the depositor is entitled to receive any all interest and dividends thereon and may, with the approval of the office, substitute other securities or deposits for those deposited. The principal amount of the deposit shall be released only on written authorization of the office or on the order of a court of competent jurisdiction.

(5)(4) A licensee registrant must at all times ~~have and~~ maintain the bond or collateral deposit in the required amount ~~prescribed by the commission~~. If the office ~~at any time~~ reasonably determines that the bond or elements of the collateral deposit are insecure, deficient in amount, or exhausted in whole or in part, the office may, by written order, require the filing of a new or supplemental bond or the deposit of new or additional collateral deposit items.

(6)(5) The bond and collateral deposit shall remain in place for 5 years after the licensee registrant ceases licensed ~~registered~~ operations in this state. The office may allow ~~permit~~ the bond or collateral deposit to be reduced or eliminated prior to that time to the extent that the amount of the licensee's registrant's outstanding payment instruments or money funds transmitted in this state are reduced. The office may also allow a licensee ~~permit a registrant~~ to substitute a letter of credit or ~~such~~ other form of acceptable security for the bond or collateral deposit at the time the licensee registrant ceases licensed ~~money transmission~~ operations in this state.

(6) ~~The office may waive or reduce a registrant's net worth or bond or collateral deposit requirement. Such waiver or modification must be requested by the applicant or registrant, and may be granted upon a showing by the applicant or registrant to the satisfaction of the office that:~~

(a) ~~The existing net worth, bond, or collateral deposit requirement is sufficiently in excess of the registrant's highest potential level of outstanding payment instruments or money transmissions in this state;~~

(b) ~~The direct and indirect cost of meeting the net worth, bond, or collateral deposit requirement will restrict the ability of the money transmitter to effectively serve the needs of its customers and the public; or~~

(c) ~~The direct and indirect cost of meeting the net worth, bond, or collateral requirement will not only have a negative impact on the money transmitter but will severely hinder the ability of the money transmitter to participate in and promote the economic progress and welfare of this state or the United States.~~

Section 35. Section 560.210, Florida Statutes, is amended to read:

560.210 Permissible investments.—

(1) A licensee ~~must~~ ~~registrant~~ shall at all times possess permissible investments with an aggregate market value, calculated in accordance with United States generally accepted accounting principles, of at least not less than the aggregate face amount of all outstanding money funds transmissions and payment instruments issued or sold by the licensee ~~registrant~~ or an authorized vendor in the United States. As used in this section,

(2) ~~Acceptable~~ permissible investments include:

(a) Cash.

(b) Certificates of deposit or other deposit liabilities of a domestic or foreign financial institution, ~~either domestic or foreign.~~

(c) Bankers' acceptances eligible for purchase by member banks of the Federal Reserve System.

(d) An investment bearing a rating of one of the three highest grades as defined by a nationally recognized rating service of such securities.

(e) Investment securities that are obligations of the United States, its agencies or instrumentalities, or obligations that are guaranteed fully as to principal and interest by the United States, or any obligations of any state or municipality, or any political subdivision thereof.

(f) Shares in a money market mutual fund.

(g) A demand borrowing agreement or agreements made to a corporation or a subsidiary of a corporation whose capital stock is listed on a national exchange.

(h) Receivables that are due to a licensee ~~registrant~~ from the licensee's ~~registrant's~~ authorized vendors except those that are more than 90 ~~30~~ days past due or are doubtful of collection.

(i) Any other investment approved by rule ~~the commission~~.

~~(2)(3)~~ Notwithstanding any other provision of this part, the office, with respect to any particular licensee ~~registrant~~ or all licensees ~~registrants~~, may limit the extent to which any class of permissible investments may be considered a permissible investment, except for cash and certificates of deposit.

~~(3)(4)~~ The office may waive the permissible investments requirement if the dollar value of a licensee's ~~registrant's~~ outstanding payment instruments and money funds transmitted do not exceed the bond or collateral deposit posted by the licensee ~~registrant~~ under s. 560.209.

Section 36. Section 560.211, Florida Statutes, is amended to read:

560.211 Required records.—

(1) In addition to the record retention requirements under s. 560.110, each licensee under this part ~~Each~~ ~~registrant~~ must make, keep, and pre-

serve the following books, accounts, records, and documents ~~other records~~ for 5 ~~a period of 3~~ years:

(a) A daily record ~~or records~~ of payment instruments sold and money funds transmitted.

(b) A general ledger containing all asset, liability, capital, income, and expense accounts, which ~~general ledger~~ shall be posted at least monthly.

(c) Daily settlement records sheets received from authorized vendors.

(d) Monthly financial institution statements and reconciliation records.

(e) Records of outstanding payment instruments and money funds transmitted.

(f) Records of each payment instrument paid and money funds transmission delivered ~~within the 3-year period~~.

(g) A list of the names and addresses of all of the licensee's ~~registrant's~~ authorized vendors, as well as ~~copies of each authorized vendor contract~~.

(h) Records that document the establishment, monitoring, and termination of relationships with authorized vendors and foreign affiliates.

(i) Any additional records, as prescribed by rule, designed to detect and prevent money laundering.

~~(2) The records required to be maintained by the code may be maintained by the registrant at any location if the registrant notifies the office in writing of the location of the records in its application or otherwise by amendment as prescribed by commission rule. The registrant shall make such records available to the office for examination and investigation in this state, as permitted by the code, within 7 days after receipt of a written request.~~

~~(3) Registrants and authorized vendors need not preserve or retain any of the records required by this section or copies thereof for a period longer than 3 years unless a longer period is expressly required by the laws of this state or federal law. A registrant or authorized vendor may destroy any of its records or copies thereof after the expiration of the retention period required by this section.~~

~~(4) The original of any record of a registrant or authorized vendor includes the data or other information comprising a record stored or transmitted in or by means of any electronic, computerized, mechanized, or other information storage or retrieval or transmission system or device which can upon request generate, regenerate, or transmit the precise data or other information comprising the record; and an original also includes the visible data or other information so generated, regenerated, or transmitted if it is legible or can be made legible by enlargement or other process.~~

~~(2)(5)~~ Any person who willfully fails to comply with this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 37. Section 560.212, Florida Statutes, is amended to read:

560.212 Financial liability.—~~A licensee~~ Each registrant under this part is liable for the payment of all money funds 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 item is negotiable or nonnegotiable.

Section 38. Section 560.213, Florida Statutes, is amended to read:

560.213 Payment instrument information.—Each payment instrument sold or issued by a licensee ~~registrant~~, directly or through an authorized vendor, must shall bear the name of the licensee, and any other information as may be required by rule, ~~registrant~~ clearly imprinted thereon.

Section 39. Section 560.303, Florida Statutes, is amended to read:

560.303 License required ~~Requirement of registration.~~—

(1) ~~A No~~ person may not shall engage in, or in any manner advertise engagement in, the business of cashing payment instruments or the exchanging of foreign currency without being licensed ~~first registering~~ under the provisions of this part.

(2) A person licensed under ~~registered pursuant to~~ this part may not engage in the activities authorized by this part. ~~A person registered under this part is prohibited from engaging directly in the activities that require a license under~~ are authorized under a registration issued pursuant to part II of this chapter, but may ~~be such person is not prohibited from engaging in an authorized vendor for relationship with a person licensed registered under part II.~~

(3) A person exempt from licensure under ~~registration pursuant to~~ this part engaging in the business of cashing payment instruments or the exchanging of foreign currency may shall not charge fees in excess of those provided in s. 560.309.

Section 40. Section 560.304, Florida Statutes, is amended to read:

560.304 Exemption from licensure ~~Exceptions to registration.~~—The requirement for licensure under ~~provisions of~~ this part does ~~do~~ not apply to:

(1) A person cashing payment instruments that have an aggregate face value of less than \$2,000 per person per day and that are ~~Authorized vendors of any person registered pursuant to the provisions of the code, acting within the scope of authority conferred by the registrant.~~

(2) ~~Persons engaged in the cashing of payment instruments or the exchanging of foreign currency which is incidental to the retail sale of goods or services whose compensation for cashing payment instruments or exchanging foreign currency at each site does not exceed 5 percent of the total gross income from the retail sale of goods or services by such person during the last 60 days its most recently completed fiscal year.~~

Section 41. Section 560.309, Florida Statutes, is amended to read:

560.309 Conduct of business Rules.—

(1) A licensee may transact business under this part only under the legal name under which the person is licensed. The use of a fictitious name is allowed if the fictitious name has been registered with the Department of State and disclosed to the office as part of an initial license application, or subsequent amendment to the application, prior to its use. Before a registrant shall deposit, with any financial institution, a payment instrument that is cashed by a registrant, each such item must be endorsed with the actual name under which such registrant is doing business.

(2) At the time a licensee accepts a payment instrument that is cashed by the licensee, the payment instrument must be endorsed using the legal name under which the licensee is licensed. Registrants must comply with all the laws of this state and any federal laws relating to money laundering, including, as applicable, the provisions of s. 560.123.

(3) A licensee under this part must deposit payment instruments into a commercial account at a federally insured financial institution or sell payment instruments within 5 business days after the acceptance of the payment instrument.

(4) A licensee may not accept or cash multiple payment instruments from a person who is not the original payee, unless the person is licensed to cash payment instruments pursuant to this part and all payment instruments accepted are endorsed with the legal name of the person.

(5) A licensee must report all suspicious activity to the office in accordance with the criteria set forth in 31 C.F.R. s. 103.20. In lieu of filing such reports, the commission may prescribe by rule that the licensee may file such reports with an appropriate regulator.

(6) Each location of a licensee where checks are cashed must be equipped with a security camera system that is capable of recording and retrieving an image in order to assist in identifying and apprehending an offender. The licensee does not have to install a security camera system if the licensee has installed a bulletproof or bullet-resistant partition or enclosure in the area where checks are cashed.

~~(7)~~(3) The commission may by rule require a ~~every~~ check casher to display its license registration and post a notice listing containing its charges for cashing payment instruments.

~~(8)~~(4) Exclusive of the direct costs of verification which shall be established by ~~commission~~ rule, a ~~no~~ check casher may not ~~shall~~:

(a) Charge fees, except as otherwise provided by this part, in excess of 5 percent of the face amount of the payment instrument, ~~or 6 percent without the provision of identification,~~ or \$5, whichever is greater;

(b) Charge fees in excess of 3 percent of the face amount of the payment instrument, ~~or 4 percent without the provision of identification,~~ or \$5,

whichever is greater, if such payment instrument is the payment of any kind of state public assistance or federal social security benefit payable to the bearer of the such payment instrument; or

(c) Charge fees for personal checks or money orders in excess of 10 percent of the face amount of those payment instruments, or \$5, whichever is greater.

~~(d) As used in this subsection, “identification” means, and is limited to, an unexpired and otherwise valid driver license, a state identification card issued by any state of the United States or its territories or the District of Columbia, and showing a photograph and signature, a United States Government Resident Alien Identification Card, a United States passport, or a United States Military identification card.~~

(9) A licensee cashing payment instruments may not assess the cost of collections, other than fees for insufficient funds as provided by law, without a judgment from a court of competent jurisdiction.

(10) If a check is returned to a licensee from a payor financial institution due to lack of funds, a closed account, or a stop-payment order, the licensee may seek collection pursuant to s. 68.065. In seeking collection, the licensee must comply with the prohibitions against harassment or abuse, false or misleading representations, and unfair practices in the Fair Debt Collections Practices Act, 15 U.S.C. ss. 1692d, 1692e, and 1692f. A violation of this subsection is a deceptive and unfair trade practice and constitutes a violation of the Deceptive and Unfair Trade Practices Act under part II of chapter 501. In addition, a licensee must comply with the applicable provisions of the Consumer Collection Practices Act under part VI of chapter 559, including s. 559.77.

Section 42. Section 560.310, Florida Statutes, is amended to read:

560.310 Records of check cashers and foreign currency exchangers.—

(1) In addition to the record retention requirements specified in s. 560.110, a licensee engaged in check cashing must maintain the following:

(a) Customer files, as prescribed by rule, on all customers who cash corporate or third-party payment instruments exceeding \$1,000.

(b) For any payment instrument accepted having a face value of \$1,000 or more:

1. A copy of the personal identification that bears a photograph of the customer used as identification and presented by the customer. Acceptable personal identification is limited to a valid driver’s license; a state identification card issued by any state of the United States or its territories or the District of Columbia, and showing a photograph and signature; a United States Government Resident Alien Identification Card; a passport; or a United States Military identification card.

2. A thumbprint of the customer taken by the licensee.

~~(c) A payment instrument log that must be maintained electronically as prescribed by rule. For purposes of this paragraph, multiple payment instruments accepted from any one person on any given day which total \$1,000 or more must be aggregated and reported on the log. Each registrant must maintain all books, accounts, records, and documents necessary to determine the registrant's compliance with the provisions of the code. Such books, accounts, records, and documents shall be retained for a period of at least 3 years.~~

~~(2) A licensee under this part may engage the services of a third party that is not a depository institution for the maintenance and storage of records required by this section if all the requirements of this section are met. The records required to be maintained by the code may be maintained by the registrant at any location if the registrant notifies the office, in writing, of the location of the records in its application or otherwise by amendment as prescribed by commission rule. The registrant shall make such records available to the office for examination and investigation in this state, as permitted by the code, within 7 days after receipt of a written request.~~

~~(3) Registrants and authorized vendors need not preserve or retain any of the records required by this section or copies thereof for a period longer than 3 years unless a longer period is expressly required by the laws of this state or any federal law. A registrant or authorized vendor may destroy any of its records or copies thereof after the expiration of the retention period required by this section.~~

~~(4) The original of any record of a registrant or authorized vendor includes the data or other information comprising a record stored or transmitted in or by means of any electronic, computerized, mechanized, or other information storage or retrieval or transmission system or device which can upon request generate, regenerate, or transmit the precise data or other information comprising the record; and an original also includes the visible data or other information so generated, regenerated, or transmitted if it is legible or can be made legible by enlargement or other process.~~

~~(5) Any person who willfully violates this section or fails to comply with any lawful written demand or order of the office made pursuant to this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

Section 43. Section 560.402, Florida Statutes, is amended to read:

560.402 Definitions.—In addition to the definitions provided in ss. 560.103, 560.202, and 560.302 and unless otherwise clearly indicated by the context, For the purposes of this part, the term:

(1) “Affiliate” means a person who, directly or indirectly, through one or more intermediaries controls, or is controlled by, or is under common control with, a deferred presentment provider.

(2) “Business day” means the hours during a particular day during which a deferred presentment provider customarily conducts business, not to exceed 15 consecutive hours during that day.

(3) ~~“Days” means calendar days.~~

(2)(4) “Deferment period” means the number of days a deferred presentment provider agrees to defer depositing, or presenting, or redeeming a payment instrument.

(5) ~~“Deferred presentment provider” means a person who engages in a deferred presentment transaction and is registered under part II or part III of the code and has filed a declaration of intent with the office.~~

(3)(6) “Deferred presentment transaction” means providing currency or a payment instrument in exchange for a drawer’s person’s check and agreeing to hold the that person’s check for a deferment period of time prior to presentment, deposit, or redemption.

(4)(7) “Drawer” means a customer ~~any person~~ who writes a personal check and upon whose account the check is drawn.

(5) “Extension of a deferred presentment agreement” means continuing a deferred presentment transaction past the deferment period by having the drawer pay additional fees and the deferred presentment provider continuing to hold the check for another deferment period.

(6)(8) “Rollover” means the termination or extension of a an existing deferred presentment agreement by the payment of an any additional fee and the continued holding of the check, or the substitution of a new check drawn by the drawer pursuant to a new deferred presentment agreement.

(9) ~~“Fee” means the fee authorized for the deferral of the presentation of a check pursuant to this part.~~

(7)(10) “Termination of a an existing deferred presentment agreement” means that the check that is the basis for the an agreement is redeemed by the drawer by payment in full in cash, or is deposited and the deferred presentment provider has evidence that such check has cleared. A Verification of sufficient funds in the drawer’s account by the deferred presentment provider is shall not be sufficient evidence to deem that the existing deferred deposit transaction is to be terminated.

(11) ~~“Extension of an existing deferred presentment agreement” means that a deferred presentment transaction is continued by the drawer paying any additional fees and the deferred presentment provider continues to hold the check for another period of time prior to deposit, presentment, or redemption.~~

Section 44. Section 560.403, Florida Statutes, is amended to read:

560.403 ~~Requirements of registration; Declaration of intent.~~—

(1) Except for financial institutions as defined in s. 655.005 No person, Unless otherwise exempt from this chapter, a person may not shall engage in a deferred presentment transaction unless the person is licensed as a money services business registered under the provisions of part II or part III of this chapter and has on file with the office a declaration of intent to

engage in deferred presentment transactions, regardless of whether such person is exempted from licensure under any other provision of this chapter. The declaration of intent must shall be under oath and on such form as prescribed the commission prescribes by rule. The declaration of intent must shall be filed together with a nonrefundable filing fee as provided in s. 560.143 of \$1,000. Any person who is registered under part II or part III on the effective date of this act and intends to engage in deferred presentment transactions shall have 60 days after the effective date of this act to file a declaration of intent. A declaration of intent expires after 24 months and must be renewed.

(2) ~~A registrant under this part shall renew his or her intent to engage in the business of deferred presentment transactions or to act as a deferred presentment provider upon renewing his or her registration under part II or part III and shall do so by indicating his or her intent by submitting a nonrefundable deferred presentment provider renewal fee of \$1,000, in addition to any fees required for renewal of registration under part II or part III.~~

(3) ~~A registrant under this part who fails to timely renew his or her intent to engage in the business of deferred presentment transactions or to act as a deferred presentment provider shall immediately cease to engage in the business of deferred presentment transactions or to act as a deferred presentment provider.~~

(4) ~~The notice of intent of a registrant under this part who fails to timely renew his or her intent to engage in the business of deferred presentment transactions or to act as a deferred presentment provider on or before the expiration date of the registration period automatically expires. A renewal fee and a nonrefundable late fee of \$500 must be filed within 60 calendar days after the expiration of an existing registration in order for the declaration of intent to be reinstated. The office shall grant a reinstatement of registration if an application is filed during the 60-day period, and the reinstatement is effective upon receipt of the required fees and any information that the commission requires by rule. If the registrant has not filed a reinstatement of a renewal declaration of intent within 60 calendar days after the expiration date of an existing registration, the notice of intent expires and a new declaration of intent must be filed with the office.~~

(5) ~~No person, other than a financial institution as defined in s. 655.005, shall be exempt from registration and declaration if such person engages in deferred presentment transactions, regardless of whether such person is currently exempt from registration under any provision of this code.~~

Section 45. Section 560.404, Florida Statutes, is amended to read:

560.404 Requirements for deferred presentment transactions.—

(1) Each ~~Every~~ deferred presentment transaction must shall be documented in a written agreement signed by ~~both~~ the deferred presentment provider and the drawer.

(2) The deferred presentment transaction agreement must shall be executed on the day the deferred presentment provider furnishes currency or a payment instrument to the drawer.

(3) Each written agreement ~~must shall~~ contain the following information, in addition to any information ~~required~~ the commission requires by rule, contain the following information:

(a) The name or trade name, address, and telephone number of the deferred presentment provider and the name and title of the person who signs the agreement on behalf of the ~~deferred presentment~~ provider.

(b) The date the deferred presentment transaction is was made.

(c) The amount of the drawer's check.

(d) The length of the deferment ~~deferral~~ period.

(e) The last day of the deferment period.

(f) The address and telephone number of the office ~~and the Division of Consumer Services of the Department of Financial Services.~~

(g) A clear description of the drawer's payment obligations under the deferred presentment transaction.

(h) The transaction number assigned by the office's database.

(4) The ~~Every~~ deferred presentment provider must shall furnish to the drawer a copy of the deferred presentment transaction agreement to the drawer.

(5) The face amount of a check taken for deferred presentment may not exceed \$500 exclusive of the fees allowed under ~~by~~ this part.

(6) A ~~No~~ deferred presentment provider or its affiliate may not shall charge fees that exceed in excess of 10 percent of the currency or payment instrument provided. However, a verification fee may be charged as provided in s. 560.309(7) in accordance with s. 560.309(4) and the rules adopted pursuant to the code. The 10-percent fee may not be applied to the verification fee. A deferred presentment provider may charge only those fees specifically authorized in this section.

(7) The fees authorized by this section may not be collected before the drawer's check is presented or redeemed.

(8) A ~~No~~ deferred presentment agreement may not shall be for a term longer than in excess of 31 days or less than 7 days.

(9) A ~~No~~ deferred presentment provider may not shall require a drawer person to provide any additional security for the deferred presentment transaction or any extension or require the drawer a person to provide any additional guaranty from another person.

(10) A deferred presentment provider may shall not include any of the following provisions in a deferred provider ~~any written~~ agreement:

(a) A hold harmless clause;[;]

- (b) A confession of judgment clause;[;]
- (c) Any assignment of or order for payment of wages or other compensation for services;[;]
- (d) A provision in which the drawer agrees not to assert any claim or defense arising out of the agreement;[;]~~or~~
- (e) A waiver of any provision of this part.
- (11) ~~A Each~~ deferred presentment provider shall immediately provide the drawer with the full amount of any check to be held, less only the fees allowed ~~permitted~~ under this section.
- (12) The deferred presentment agreement and the drawer's check must ~~shall~~ bear the same date, and the number of days of the deferment period shall be calculated from ~~that this~~ date. ~~The No~~ deferred presentment provider and the drawer or person may not alter or delete the date on any written agreement or check held by the deferred presentment provider.
- (13) For each deferred presentment transaction, the deferred presentment provider must comply with the disclosure requirements of 12 C.F.R., part 226, relating to the federal Truth-in-Lending Act, and Regulation Z of the Board of Governors of the Federal Reserve Board. A copy of the disclosure must be provided to the drawer at the time the deferred presentment transaction is initiated.
- (14) ~~A No~~ deferred presentment provider or its affiliate may not accept or hold an undated check or a check dated on a date other than the date on which the deferred presentment provider agreed to hold the check and signed the deferred presentment transaction agreement.
- (15) ~~A Every~~ deferred presentment provider must ~~shall~~ hold the drawer's check for the agreed number of days, unless the drawer chooses to redeem the check before the ~~agreed~~ presentment date.
- (16) Proceeds in a deferred presentment transaction may be made to the drawer in the form of the deferred presentment provider's payment instrument if the deferred presentment provider is registered under part II; however, an no additional fee may not be charged by a deferred presentment provider or its affiliate for issuing or cashing the deferred presentment provider's payment instrument.
- (17) ~~A No~~ deferred presentment provider may not require the drawer to accept its payment instrument in lieu of currency.
- (18) ~~A No~~ deferred presentment provider or its affiliate may not engage in the rollover of a any deferred presentment agreement. A deferred presentment provider may ~~shall~~ not redeem, extend, or otherwise consolidate a deferred presentment agreement with the proceeds of another deferred presentment transaction made by the same or an affiliate ~~affiliated deferred presentment provider~~.

(19) A deferred presentment provider may not enter into a deferred presentment transaction with a drawer person who has an outstanding deferred presentment transaction with that provider or with any other deferred presentment provider, or with a person whose previous deferred presentment transaction with that provider or with any other provider has been terminated for less than 24 hours. The deferred presentment provider must verify such information as follows:

(a) The deferred presentment provider shall maintain a common database and shall verify whether ~~the that deferred presentment~~ provider or an affiliate has an outstanding deferred presentment transaction with a particular person or has terminated a transaction with that person within the previous 24 hours.

(b) The deferred presentment provider shall access the office's database established pursuant to subsection (23) and shall verify whether any other deferred presentment provider has an outstanding deferred presentment transaction with a particular person or has terminated a transaction with that person within the previous 24 hours. If a provider has not established ~~Prior to the time that the office has implemented such a~~ database, the deferred presentment provider may rely upon the written verification of the drawer as provided in subsection (20).

(20) A deferred presentment provider shall provide the following notice in a prominent place on each deferred presentment agreement in at least 14-point type in substantially the following form and must obtain the signature of the drawer where indicated:

NOTICE

1. STATE LAW PROHIBITS YOU FROM HAVING MORE THAN ONE DEFERRED PRESENTMENT AGREEMENT AT ANY ONE TIME. STATE LAW ALSO PROHIBITS YOU FROM ENTERING INTO A DEFERRED PRESENTMENT AGREEMENT WITHIN 24 HOURS AFTER OF TERMINATING ANY PREVIOUS DEFERRED PRESENTMENT AGREEMENT. FAILURE TO OBEY THIS LAW COULD CREATE SEVERE FINANCIAL HARDSHIP FOR YOU AND YOUR FAMILY.

YOU MUST SIGN THE FOLLOWING STATEMENT:

I DO NOT HAVE AN OUTSTANDING DEFERRED PRESENTMENT AGREEMENT WITH ANY DEFERRED PRESENTMENT PROVIDER AT THIS TIME. I HAVE NOT TERMINATED A DEFERRED PRESENTMENT AGREEMENT WITHIN THE PAST 24 HOURS.

(Signature of Drawer)

2. YOU CANNOT BE PROSECUTED IN CRIMINAL COURT FOR A CHECK WRITTEN UNDER THIS AGREEMENT, BUT ALL LEGALLY AVAILABLE CIVIL MEANS TO ENFORCE THE DEBT MAY BE PURSUED AGAINST YOU.

3. STATE LAW PROHIBITS A DEFERRED PRESENTMENT PROVIDER (THIS BUSINESS) FROM ALLOWING YOU TO "ROLL OVER"

YOUR DEFERRED PRESENTMENT TRANSACTION. THIS MEANS THAT YOU CANNOT BE ASKED OR REQUIRED TO PAY AN ADDITIONAL FEE IN ORDER TO FURTHER DELAY THE DEPOSIT OR PRESENTMENT OF YOUR CHECK FOR PAYMENT. IF YOU INFORM THE PROVIDER IN PERSON THAT YOU CANNOT COVER THE CHECK OR PAY IN FULL THE AMOUNT OWING AT THE END OF THE TERM OF THIS AGREEMENT, YOU WILL RECEIVE A GRACE PERIOD EXTENDING THE TERM OF THE AGREEMENT FOR AN ADDITIONAL 60 DAYS AFTER THE ORIGINAL TERMINATION DATE, WITHOUT ANY ADDITIONAL CHARGE. THE DEFERRED PRESENTMENT PROVIDER SHALL REQUIRE THAT YOU, AS A CONDITION OF OBTAINING THE GRACE PERIOD, COMPLETE CONSUMER CREDIT COUNSELING PROVIDED BY AN AGENCY INCLUDED ON THE LIST THAT WILL BE PROVIDED TO YOU BY THIS PROVIDER. YOU MAY ALSO AGREE TO COMPLY WITH AND ADHERE TO A REPAYMENT PLAN APPROVED BY THAT AGENCY. IF YOU DO NOT COMPLY WITH AND ADHERE TO A REPAYMENT PLAN APPROVED BY THAT AGENCY, WE MAY DEPOSIT OR PRESENT YOUR CHECK FOR PAYMENT AND PURSUE ALL LEGALLY AVAILABLE CIVIL MEANS TO ENFORCE THE DEBT AT THE END OF THE 60-DAY GRACE PERIOD.

(21) The deferred presentment provider may not deposit or present the drawer's check if the drawer informs the provider in person that the drawer cannot redeem or pay in full in cash the amount due and owing the deferred presentment provider. No additional fees or penalties may be imposed on the drawer by virtue of any misrepresentation made by the drawer as to the sufficiency of funds in the drawer's account. ~~In no event shall any~~ Additional fees may not be added to the amounts due and owing to the deferred presentment provider.

(22)(a) If, by the end of the deferment period, the drawer informs the deferred presentment provider in person that the drawer cannot redeem or pay in full in cash the amount due and owing the deferred presentment provider, the deferred presentment provider shall provide a grace period extending the term of the agreement for an additional 60 days after the original termination date, without any additional charge.

(a) The provider shall require that as a condition of providing a this grace period, that ~~within the first 7 days of the grace period~~ the drawer make an appointment with a consumer credit counseling agency within 7 days after the end of the deferment period and complete the counseling by the end of the grace period. The drawer may agree to, comply with, and adhere to a repayment plan approved by the counseling agency. If the drawer agrees to comply with and adhere to a repayment plan approved by the counseling agency, the provider must ~~is also required to~~ comply with and adhere to that repayment plan. The deferred presentment provider may not deposit or present the drawer's check for payment before the end of the 60-day grace period unless the drawer fails to comply with such conditions or the drawer fails to notify the provider of such compliance. Before each deferred presentment transaction, the provider may verbally advise the drawer of the availability of the grace period consistent with ~~the provisions of~~ the written notice

in subsection (20), and may ~~shall~~ not discourage the drawer from using the grace period.

(b) At the commencement of the grace period, the deferred presentment provider shall provide the drawer:

1. Verbal notice of the availability of the grace period consistent with the written notice in subsection (20).

2. A list of approved consumer credit counseling agencies prepared by the office. The office list shall include nonprofit consumer credit counseling agencies affiliated with the National Foundation for Credit Counseling which provide credit counseling services to state Florida residents in person, by telephone, or through the Internet. The office list must include phone numbers for the agencies, the counties served by the agencies, and indicate the agencies that provide telephone counseling and those that provide Internet counseling. The office shall update the list at least once each year.

3. The following notice in at least 14-point type in substantially the following form:

AS A CONDITION OF OBTAINING A GRACE PERIOD EXTENDING THE TERM OF YOUR DEFERRED PRESENTMENT AGREEMENT FOR AN ADDITIONAL 60 DAYS, UNTIL [DATE], WITHOUT ANY ADDITIONAL FEES, YOU MUST COMPLETE CONSUMER CREDIT COUNSELING PROVIDED BY AN AGENCY INCLUDED ON THE LIST THAT WILL BE PROVIDED TO YOU BY THIS PROVIDER. YOU MAY ALSO AGREE TO COMPLY WITH AND ADHERE TO A REPAYMENT PLAN APPROVED BY THE AGENCY. THE COUNSELING MAY BE IN PERSON, BY TELEPHONE, OR THROUGH THE INTERNET. YOU MUST NOTIFY US WITHIN 7 SEVEN ~~(7)~~ DAYS, BY [DATE], THAT YOU HAVE MADE AN APPOINTMENT WITH SUCH A CONSUMER CREDIT COUNSELING AGENCY. YOU MUST ALSO NOTIFY US WITHIN 60 SIXTY ~~(60)~~ DAYS, BY [DATE], THAT YOU HAVE COMPLETED THE CONSUMER CREDIT COUNSELING. WE MAY VERIFY THIS INFORMATION WITH THE AGENCY. IF YOU FAIL TO PROVIDE ~~EITHER~~ THE 7-DAY OR 60-DAY NOTICE, OR IF YOU HAVE NOT MADE THE APPOINTMENT OR COMPLETED THE COUNSELING WITHIN THE TIME REQUIRED, WE MAY DEPOSIT OR PRESENT YOUR CHECK FOR PAYMENT AND PURSUE ALL LEGALLY AVAILABLE CIVIL MEANS TO ENFORCE THE DEBT.

(c) If a drawer completes an approved payment plan, the deferred presentment provider shall pay one-half of the drawer's fee for the deferred presentment agreement to the consumer credit counseling agency.

(23) The office shall implement a common database with real-time access through an Internet connection for deferred presentment providers, as provided in this subsection. The database must be accessible to the office and the deferred presentment providers in order to verify whether any deferred presentment transactions are outstanding for a particular person. Deferred presentment providers shall submit such data before entering into each deferred presentment transaction in such format as required ~~the commis-~~

sion shall require by rule, including the drawer's name, social security number or employment authorization alien number, address, driver's license number, amount of the transaction, date of transaction, the date that the transaction is closed, and such additional information as is required by rule the commission. The commission may by rule impose a fee of up to not to exceed \$1 per transaction for data that must required to be submitted by a deferred presentment provider. A deferred presentment provider may rely on the information contained in the database as accurate and is not subject to any administrative penalty or civil liability due to as a result of relying on inaccurate information contained in the database. A deferred presentment provider must notify the office, in a manner as prescribed by rule, within 15 business days after ceasing operations or no longer holding a license under part II or part III of this chapter. Such notification must include a reconciliation of all open transactions. If the provider fails to provide notice, the office shall take action to administratively release all open and pending transactions in the database after the office becomes aware of the closure. This section does not affect the rights of the provider to enforce the contractual provisions of the deferred presentment agreements through any civil action allowed by law. The commission may adopt rules to administer and enforce the provisions of this subsection section and to ensure assure that the database is used by deferred presentment providers in accordance with this section.

(24) A deferred presentment provider may not accept more than one check or authorization to initiate more than one automated clearinghouse transaction to collect on a deferred presentment transaction for a single deferred presentment transaction.

Section 46. Section 560.405, Florida Statutes, is amended to read:

560.405 Deposit; redemption.—

(1) The deferred presentment provider or its affiliate may shall not present the drawer's check before the end of the deferment period prior to the agreed-upon date of presentment, as reflected in the deferred presentment transaction agreement.

(2) Before a deferred presentment provider presents the drawer's check, the check must shall be endorsed with the actual name under which the deferred presentment provider is doing business.

(3) Notwithstanding the provisions of subsection (1), in lieu of presentment, a deferred presentment provider may allow the check to be redeemed at any time upon payment to the deferred presentment provider in the amount of the face amount of the drawer's check. However, payment may not be made in the form of a personal check. Upon redemption, the deferred presentment provider shall return the drawer's check that was being held and provide a signed, dated receipt showing that the drawer's check has been redeemed.

(4) A No drawer may not can be required to redeem his or her check before prior to the agreed-upon date; however, the drawer may choose to redeem the check before the agreed-upon presentment date.

Section 47. Section 560.406, Florida Statutes, is amended to read:

560.406 Worthless checks.—

(1) If a check is returned to a deferred presentment provider from a payor financial institution due to lack of funds, a closed account, or a stop-payment order, the deferred presentment provider may seek collection pursuant to s. 68.065, except a deferred presentment provider may shall not be entitled to collect treble damages pursuant ~~s. 68.065~~. The notice sent by ~~the~~ a deferred deposit provider may pursuant to s. 68.065 shall not include any references to treble damages and must clearly state that the deferred presentment provider is not entitled to recover such damages. Except as otherwise provided in this part, an individual who issues a personal check to a deferred presentment provider under a deferred presentment agreement is not subject to criminal penalty.

(2) If a check is returned to a deferred presentment provider from a payor financial institution due to insufficient funds, a closed account, or a stop-payment order, the deferred presentment provider may pursue all legally available civil remedies to collect the check, including, but not limited to, the imposition of all charges imposed on the deferred presentment provider by the any financial institution. In its collection practices, a deferred presentment provider must shall comply with the prohibitions against harassment or abuse, false or misleading representations, and unfair practices that which are contained in ~~ss. 806, 807, and 808~~ of the Fair Debt Collections Practices Act, 15 U.S.C. ss. 1692d, 1692e, 1692f. A violation of this act is a deceptive and unfair trade practice and constitutes a violation of the Deceptive and Unfair Trade Practices Act under, part II of chapter 501. In addition, a deferred presentment provider must shall comply with the applicable provisions of ~~part VI of chapter 559~~, the Consumer Collection Practices Act under part VI of chapter 559, including, ~~but not limited to, the provisions of s. 559.77.~~

(3) A deferred presentment provider may not assess the cost of collection, other than charges for insufficient funds as allowed by law, without a judgment from a court of competent jurisdiction.

Section 48. Subsection (7) of section 499.005, Florida Statutes, is amended to read:

499.005 Prohibited acts.—It is unlawful for a person to perform or cause the performance of any of the following acts in this state:

(7) The purchase or sale of prescription drugs for wholesale distribution in exchange for currency, as defined in ~~s. 560.103~~ s. 560.103(6).

Section 49. Paragraph (i) of subsection (2) of section 499.0691, Florida Statutes, is amended to read:

499.0691 Criminal punishment for violations related to drugs; dissemination of false advertisement.—

(2) Any person who violates any of the following provisions commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, or as otherwise provided in ss. 499.001-499.081.

(i) The purchase or sale of prescription drugs for wholesale distribution in exchange for currency, as defined in s. 560.103 ~~s. 560.103(6)~~.

Section 50. Paragraph (b) of subsection (2) of section 501.95, Florida Statutes, is amended to read:

501.95 Gift certificates and credit memos.—

(2)

(b) Paragraph (a) does not apply to a gift certificate or credit memo sold or issued by a financial institution, as defined in s. 655.005, or by a money services business transmitter, as defined in s. 560.103, if the gift certificate or credit memo is redeemable by multiple unaffiliated merchants.

Section 51. Paragraph (n) of subsection (2) of section 538.03, Florida Statutes, is amended to read:

538.03 Definitions; applicability.—

(2) This chapter does not apply to:

(n) A business that contracts with other persons or entities to offer its secondhand goods for sale, purchase, consignment, or trade via an Internet website, and that maintains a shop, store, or other business premises for this purpose, if all of the following apply:

1. The secondhand goods must be available on the website for viewing by the public at no charge;

2. The records of the sale, purchase, consignment, or trade must be maintained for at least 2 years;

3. The records of the sale, purchase, consignment, or trade, and the description of the secondhand goods as listed on the website, must contain the serial number of each item, if any;

4. The secondhand goods listed on the website must be searchable based upon the state or zip code;

5. The business must provide the appropriate law enforcement agency with the name or names under which it conducts business on the website;

6. The business must allow the appropriate law enforcement agency to inspect its business premises at any time during normal business hours;

7. Any payment by the business resulting from such a sale, purchase, consignment, or trade must be made to the person or entity with whom the business contracted to offer the goods and must be made by check or via a money services business transmitter licensed under part II of chapter 560; and

8.a. At least 48 hours after the estimated time of contracting to offer the secondhand goods, the business must verify that any item having a serial

number is not stolen property by entering the serial number of the item into the Department of Law Enforcement's stolen article database located at the Florida Crime Information Center's public access system website. The business shall record the date and time of such verification on the contract covering the goods. If such verification reveals that an item is stolen property, the business shall immediately remove the item from any website on which it is being offered and notify the appropriate law enforcement agency; or

b. The business must provide the appropriate law enforcement agency with an electronic copy of the name, address, phone number, driver's license number, and issuing state of the person with whom the business contracted to offer the goods, as well as an accurate description of the goods, including make, model, serial number, and any other unique identifying marks, numbers, names, or letters that may be on an item, in a format agreed upon by the business and the appropriate law enforcement agency. This information must be provided to the appropriate law enforcement agency within 24 hours after entering into the contract unless other arrangements are made between the business and the law enforcement agency.

Section 52. Subsection (10) of section 896.101, Florida Statutes, is amended to read:

896.101 Florida Money Laundering Act; definitions; penalties; injunctions; seizure warrants; immunity.—

(10) Any financial institution, licensed money services business transmitter, or other person served with and complying with the terms of a warrant, temporary injunction, or other court order, including any subpoena issued under the authority granted by s. 16.56 or s. 27.04, obtained in furtherance of an investigation of any crime in this section, including any crime listed as specified unlawful activity under this section or any felony violation of chapter 560, has immunity from criminal liability and ~~is shall~~ not be liable to any person for any lawful action taken in complying with the warrant, temporary injunction, or other court order, including any subpoena issued under the authority granted by s. 16.56 or s. 27.04. If any subpoena issued under the authority granted by s. 16.56 or s. 27.04 contains a nondisclosure provision, any financial institution, licensed money services business transmitter, employee or officer of a financial institution or licensed money services business transmitter, or any other person may not notify, directly or indirectly, any customer of that financial institution or licensed money services business transmitter whose records are being sought by the subpoena, or any other person named in the subpoena, about the existence or the contents of that subpoena or about information that has been furnished to the state attorney or statewide prosecutor who issued the subpoena or other law enforcement officer named in the subpoena in response to the subpoena.

Section 53. Subsection (5) of section 896.104, Florida Statutes, is amended to read:

896.104 Structuring transactions to evade reporting or registration requirements prohibited.—

(5) **INFERENCE.**—Proof that a person engaged for monetary consideration in the business of a ~~money funds~~ transmitter, as defined in ~~s. 560.103, s. 560.103(10)~~ and who is transporting more than \$10,000 in currency, or ~~the~~ foreign equivalent, without being licensed ~~registered~~ as a money transmitter or designated as an authorized vendor under ~~the provisions of~~ chapter 560, gives rise to an inference that the transportation was done with knowledge of the licensure ~~registration~~ requirements of chapter 560 and the reporting requirements of this chapter.

Section 54. Paragraph (g) of subsection (3) of section 921.0022, Florida Statutes, is amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(g) LEVEL 7

Florida Statute	Felony Degree	Description
316.027(1)(b)	1st	Accident involving death, failure to stop; leaving scene.
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfigurement, permanent disability, or death.
409.920(2)	3rd	Medicaid provider fraud.
456.065(2)	3rd	Practicing a health care profession without a license.
456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
458.327(1)	3rd	Practicing medicine without a license.
459.013(1)	3rd	Practicing osteopathic medicine without a license.
460.411(1)	3rd	Practicing chiropractic medicine without a license.
461.012(1)	3rd	Practicing podiatric medicine without a license.

Florida Statute	Felony Degree	Description
462.17	3rd	Practicing naturopathy without a license.
463.015(1)	3rd	Practicing optometry without a license.
464.016(1)	3rd	Practicing nursing without a license.
465.015(2)	3rd	Practicing pharmacy without a license.
466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
467.201	3rd	Practicing midwifery without a license.
468.366	3rd	Delivering respiratory care services without a license.
483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
483.901(9)	3rd	Practicing medical physics without a license.
484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.
484.053	3rd	Dispensing hearing aids without a license.
494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by <u>a money services business transmitter</u> .
560.125(5)(a)	3rd	Money <u>services transmitter</u> business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew driver's license or identification card; other registration violations.
775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.
775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.

Florida Statute	Felony Degree	Description
782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
782.071	2nd	Killing of a human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).
782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
784.048(7)	3rd	Aggravated stalking; violation of court order.
784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
784.074(1)(a)	1st	Aggravated battery on sexually violent predators facility staff.
784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
784.081(1)	1st	Aggravated battery on specified official or employee.
784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
784.083(1)	1st	Aggravated battery on code inspector.
790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
790.16(1)	1st	Discharge of a machine gun under specified circumstances.
790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.

Florida Statute	Felony Degree	Description
790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
794.08(4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
796.03	2nd	Procuring any person under 16 years for prostitution.
800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.
800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older.
806.01(2)	2nd	Maliciously damage structure by fire or explosive.
810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
810.02(3)(e)	2nd	Burglary of authorized emergency vehicle.
812.014(2)(a)1.	1st	Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
812.014(2)(b)2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
812.014(2)(b)3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
812.014(2)(b)4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
812.0145(2)(a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
812.131(2)(a)	2nd	Robbery by sudden snatching.
812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.

Florida Statute	Felony Degree	Description
817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
817.234(11)(c)	1st	Insurance fraud; property value \$100,000 or more.
817.234(2)(b)&(3) (b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
825.103(2)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.
827.03(3)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
838.015	2nd	Bribery.
838.016	2nd	Unlawful compensation or reward for official behavior.
838.021(3)(a)	2nd	Unlawful harm to a public servant.
838.22	2nd	Bid tampering.
847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
872.06	2nd	Abuse of a dead human body.
893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.

Florida Statute	Felony Degree	Description
893.13(1)(e)1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.
893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
893.135(1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
893.135(1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
893.135(1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
893.135(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
893.135(1)(h)1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
893.135(1)(j)1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
893.135(1)(k)2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
896.101(5)(a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
943.0435(4)(c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
943.0435(9)(a)	3rd	Sexual offender; failure to comply with reporting requirements.

Florida Statute	Felony Degree	Description
943.0435(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
943.0435(14)	3rd	Sexual offender; failure to report and re-register; failure to respond to address verification.
944.607(9)	3rd	Sexual offender; failure to comply with reporting requirements.
944.607(10)(a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
944.607(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
944.607(13)	3rd	Sexual offender; failure to report and re-register; failure to respond to address verification.
985.4815(10)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
985.4815(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
985.4815(13)	3rd	Sexual offender; failure to report and re-register; failure to respond to address verification.

Section 55. Sections 560.101, 560.102, 560.106, 560.1073, 560.108, 560.112, 560.117, 560.200, 560.202, 560.206, 560.207, 560.301, 560.302, 560.305, 560.306, 560.307, 560.308, 560.401, and 560.407, Florida Statutes, are repealed.

Section 56. This act shall take effect January 1, 2009.

Approved by the Governor June 17, 2008.

Filed in Office Secretary of State June 17, 2008.