

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 660

SPONSOR: Senator Brown-Waite

SUBJECT: Money Transmitters' Code

DATE: March 19, 2001 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|--------------------|------------|------------------------|
| 1. | <u>Johnson</u> | <u>Deffenbaugh</u> | <u>BI</u> | <u>Favorable</u> |
| 2. | <u>Joseph</u> | <u>Maclure</u> | <u>CM</u> | <u>Fav/1 amendment</u> |
| 3. | <u>Keating</u> | <u>Johansen</u> | <u>FT</u> | <u>Favorable</u> |
| 4. | _____ | _____ | <u>AGG</u> | _____ |
| 5. | _____ | _____ | <u>AP</u> | _____ |
| 6. | _____ | _____ | _____ | _____ |

I. Summary:

In 1994, the Legislature enacted ch. 560, F.S., the Money Transmitters' Code, which provides for the regulation of the money transmitter industry by the Department of Banking and Finance. This industry includes wire transmitters, check cashers, and foreign money exchangers. The bill would provide the following changes to ch. 560, F.S.:

- Deletes examination fees and uses registration fees to fund the regulatory program;
- Adds an initial \$50 application fee for each vendor or branch of a Part II (payment instruments and funds transmission) or Part III (check cashing and foreign currency) registrant;
- Authorizes the department to assess a registrant a \$500 late filing fee if the renewal application is submitted within 60 days after the expiration of the license;
- Increases the cap on renewal fees for registrants with multiple locations from \$5,000 to \$20,000; and
- Requires registrants to notify the department of any newly established locations within 60 days.

This bill substantially amends the following sections of the Florida Statutes: 560.119, 560.205, 560.206, 560.207, 560.208, 560.307, and 560.308. Paragraphs (d) and (e) of subsection (1) of s. 560.118 are repealed.

II. Present Situation:

Chapter 560, F.S., the Money Transmitters' Code, provides for the registration and regulation of payment instruments and funds transmission (Part II of ch. 560, F.S.) and check cashing and

foreign currency exchange (Part III of ch. 560, F.S.). A money transmitter is defined to include any person located in or doing business in Florida who acts as a payment instrument seller, foreign currency exchanger, check casher, or funds transmitter. Payment instruments include checks, drafts, warrants, money orders, traveler's checks, or other instruments or payments of money (s. 560.103, F.S.).

Part II of ch. 560, F.S., provides for the regulation of payment instruments and funds transmission. Prior to engaging in the sale or issuance of payment instruments or in the activity of a money transmitter, a person must obtain registration under the provisions of this part. Requirements for applicants for registration include: (1) submission of a nonrefundable investigation fee not to exceed \$500; (2) name and address of the applicant; (3) the history of the applicant's material litigation; (4) a description of the activities conducted by the applicant and the business activities in which the applicant seeks to engage in Florida; and (5) other information including financial reports (s. 560.205, F.S.). Part II of ch. 560, F.S., provides that registration must be renewed on April 30 of the year following issuance of the registration. A registration may be renewed for a 24-month period by paying up to a \$1,000 fee, along with a \$50 fee for each of the registrants' locations, not to exceed \$5,000 for all locations (ss. 560.206 and 560.207, F.S.). Section 560.204, F.S., authorizes a person registered under Part II to engage in check cashing and foreign currency exchange transactions authorized under Part III.

No person may engage in the business of cashing checks or payment instruments, or in the exchange of foreign currency, without first registering under the provisions of Part III of ch. 560, F.S., which:

- Provides for registration, regulation, reports, and examinations for persons cashing checks or exchanging foreign currency.
- Requires an initial investigation fee for registration, which may not exceed \$250. Provides for a renewal fee of \$500 every two years, and a \$50 registration renewal fee for each location not to exceed \$5,000.
- Provides an exemption from registration to persons engaged in cashing payment instruments or exchanging foreign currency for compensation if such activity for each location does not exceed 5 percent of the total gross income from the retail sale of goods or services during its most recently completed fiscal year.
- Provides limitations on all persons in the business of cashing payment instruments or exchanging foreign currency.

The Department of Banking and Finance also administers the Money Laundering Program to deter money laundering through financial institutions operating in Florida. The more recent focus of money laundering activities has been on money transmitters (check cashers, foreign currency exchangers, money order issuers, and wire transmitters), which have been increasingly identified as vehicles for money laundering.

III. Effect of Proposed Changes:

In 1994, the Legislature enacted ch. 560, F.S., the Money Transmitter's Code, which provides for the regulation of the money transmitter industry by the Department of Banking and Finance (department). This industry includes wire transmitters, check cashers, and foreign money exchangers. This bill provides a number of changes to ch. 560, F.S., including new notification requirements and the deletion of examination fees and the creation of registration fees to fund the regulatory program. The new fees are an initial \$50 application fee for each vendor or branch registrant; a \$500 late filing fee if the renewal application is submitted within 60 days after the expiration of the license; and an increased cap on renewal fees for registrants with multiple locations from \$5,000 to \$20,000.

Section 1. Amends s. 560.119, F.S., relating to deposit of fees and assessments, to delete references to examination fees and to require application and renewal fees, penalties, and fines to be deposited into the Regulatory Trust Fund rather than the Financial Institutions Regulatory Trust Fund.

Section 2. Amends s. 560.205, F.S., relating to qualifications of an applicant for registration, to require an application fee of \$50 to be remitted for each authorized vendor or branch location of the payment instrument seller or funds transmitter. An applicant would also be required to remit a nonrefundable application (rather than investigation) fee not to exceed \$500.

Section 3. Amends s. 560.206, F.S., relating to investigation of applicants, to provide that a registration issued under Part II expires on April 30 of the second year following the registration's issuance, rather than on April 30 following the date of issuance, as currently provided in statute. This change would conform to the two-year license renewal provided in s. 560.207, F.S.

Section 4. Amends s. 560.207, F.S., relating to renewal of registration, to provide late fees of \$500 for Part II registration renewals. Under the bill, if the renewal application is filed within 60 days of the registrant's expiration, a late fee of \$500 is required along with the \$1,000 renewal fee. If more than 60 days have passed, a new application for renewal is required. The bill also continues to provide that a \$50 fee must accompany each application for renewal for each location of a registrant, and provides for the option of paying a total fee for all locations; however, this fee cap would be increased from \$5,000 to \$20,000 for all currently registered locations at the time of renewal.

Section 5. Amends s. 560.208, F.S., relating to conduct of business, to require that Part II registrants must notify the department of all authorized vendor or branch locations in this state within 60 days of designating such a location, and must submit a financial statement indicating compliance with s. 560.209(1), F.S., (net worth) and s. 560.118(2), F.S., (financial reporting). The financial statement must be dated within 90 days after the date of designation of the authorized vendor or location. Furthermore, the bill provides that registrants must submit a \$50 fee for each of these locations. This section would also require the registrant to notify the department within 10 days that a registrant either closes a branch location within this state or withdraws its authorization for an authorized vendor to operate on its behalf within this state.

Section 6. Amends s. 560.307, F.S., relating to fees, to require an application (rather than an investigation) fee of \$50 for each authorized vendor or branch of the registrant. The bill would continue the requirement in s. 560.307, F.S., of requiring a fee of up to \$250 for Part III registrants (check cashers or currency exchangers). The section would also require Part III registrants to notify the department of all authorized vendor or branch locations within 60 days of designating such a location, and would require a \$50 fee for each location. The section would also require the registrant to notify the department within 10 days that a registrant either closes a branch location within this state or withdraws its authorization for an authorized vendor to operate on its behalf within this state.

Section 7. Amends s. 560.308, F.S., relating to registration terms, to increase the maximum fee that may be paid by Part III registrants to renew the registration for all vendor and branch locations from \$5,000 to \$20,000. It also provides for a late fee of \$250 for registration renewals within 60 days of the expiration of an existing registration. The amount of the renewal fee is changed from an amount not to exceed \$500 to \$500. The bill also continues to provide that a \$50 fee must accompany each application for renewal for each location of a registrant, and provides for the option of paying a total fee for all locations; however, this fee cap would be increased from \$5,000 to \$20,000 for all currently registered locations at the time of renewal.

Section 8. Repeals paragraphs (d) and (e) of subsection (1) of s. 560.118, F.S., which provide that the department may recover costs of examination and supervision of money transmitters from the money transmitters. Rather than requiring these statutory costs, the bill increases registration and renewal fees required by the act to finance the department's enforcement of this act.

Section 9. Provides that the act shall take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

This bill changes the fee structure of the Money Transmitters' Code and is intended to be more cost-effective while distributing the cost of regulation more equitably between the larger and smaller businesses. The new fees are an initial \$50 application fee for each

vendor or branch registrant; a \$500 late filing fee if the renewal application is submitted within 60 days after the expiration of the license; and an increased cap on renewal fees for registrants with multiple locations from \$5,000 to \$20,000.

The Department of Banking and Finance estimates that the increased fees will generate \$255,000 in recurring revenues for deposit into the Regulatory Trust Fund. Since the trust fund is subject to the 7% General Revenue service charge, there will be an insignificant increase to the General Revenue Fund as a result of the fee increases.

B. Private Sector Impact:

An increase in the fee structure of entities licensed under ch. 560, F.S., would allow the department to enhance its regulatory oversight of these entities and provide greater consumer protections for customers using these services.

By revising the fee structure for entities regulated under ch. 560, F.S., other businesses regulated by the Department of Banking and Finance would no longer be subsidizing the cost of ch. 560, F.S., licensees.

C. Government Sector Impact:

Registrants would no longer be assessed examination fees. Instead, registration and renewal fees would be used to fund the regulation of entities licensed under the Money Transmitter Code. The implementation of this change in funding would be consistent with the administration of other financial services programs regulated by the department.

According to the department, originally eight positions were appropriated to regulate the money transmitter industry. However, due to a shortfall in anticipated revenues, the department was not able to fund more than three positions (two in licensing and one in examinations). The department has indicated that the lack of adequate staffing has impacted its ability to effectively regulate the industry. The additional revenues generated by the fees authorized in this bill are anticipated to provide sufficient revenues to adequately fund the remaining five positions authorized for this program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Commerce & Economic Opportunities:

Requires the registrant to notify the Department of Banking and Finance within 60 days (instead of 10 days) after the registrant either closes a branch location within this state or withdraws its authorization for a vendor to operate on its behalf within this state.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
