

SENATE BILL No. 432

June 6, 2017, Introduced by Senators ROBERTSON, JOHNSON, BIEDA and GREGORY
and referred to the Committee on Banking and Financial Institutions.

A bill to amend 2005 PA 244, entitled
"Deferred presentment service transactions act,"
by amending sections 2, 11, 22, 31, 32, 33, and 35 (MCL 487.2122,
487.2131, 487.2142, 487.2151, 487.2152, 487.2153, and 487.2155),
section 2 as amended by 2016 PA 140 and section 35 as amended by
2016 PA 141.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) As used in this act:

2 (a) "Applicant" means a person that is seeking a license to
3 engage in the business of providing deferred presentment service
4 transactions under this act.

5 (b) "Check" means a draft that is payable on demand and drawn
6 on a bank, savings bank, savings and loan association, or credit
7 union. Check includes any negotiable instrument that represents

1 evidence of an obligation to pay even if it is described on its
2 face by another term.

3 (c) "Closed" in connection with a deferred presentment service
4 transaction means that 1 of the following has occurred concerning
5 each of the customer's checks that is the basis of the deferred
6 presentment service transaction:

7 (i) The check is redeemed by the customer by payment to the
8 licensee of the face amount of the check in cash or payment from a
9 debit card that meets the requirements of section 35(11).

10 (ii) The check is exchanged by the licensee for a cashier's
11 check or cash from the customer's financial institution.

12 (iii) The check is deposited by the licensee and the licensee
13 has evidence that the person has satisfied the obligation.

14 (iv) The check is collected by the licensee or its agent
15 through any civil remedy available under the laws of this state.

16 (v) The check is collected by means of a repayment plan agreed
17 on by the customer and the licensee or as the result of credit
18 counseling where the licensee is paid the amount agreed upon by the
19 licensee under that plan.

20 (vi) The check is collected by the licensee under section
21 35(9) and the licensee has evidence that the person has satisfied
22 the obligation.

23 (d) "Commissioner" means the director or his or her authorized
24 representative.

25 (e) "Customer" means an individual who inquires into the
26 availability of or applies for a deferred presentment service
27 transaction or a drawer who enters into a deferred presentment

1 service transaction.

2 (f) "Database provider" means 1 of the following:

3 (i) A third party provider selected by the director under
4 section 22 to operate the statewide database described in that
5 section.

6 (ii) If the director has not selected a third party provider
7 under section 22, the director.

8 (g) Subject to subsection (2), "deferred presentment service
9 transaction" means a transaction between a licensee and a customer
10 under which the licensee agrees to do all of the following:

11 (i) Pay to the customer an agreed-upon amount in exchange for
12 a fee.

13 (ii) Hold a customer's check for a period of time before
14 negotiation, redemption, or presentment of the checks.

15 (h) "Department" means the department of insurance and
16 financial services.

17 (i) "Director" means the director of the department or his or
18 her authorized representative.

19 (j) "Drawee" means a bank, savings bank, savings and loan
20 association, credit union, or other person on which a check is
21 drawn.

22 (k) "Drawer" means a customer who enters into a deferred
23 presentment service transaction with a licensee.

24 (l) "Executive officer" means an officer or director of a
25 licensee or any other individual who has the authority to
26 participate in the direction, directly or indirectly, through 1 or
27 more persons, or the management or policies of a licensee.

1 (m) "Financial licensing ~~act~~" ~~means this act or any of the~~
2 ~~financial licensing acts~~ **ACTS" MEANS THAT TERM** as defined in
3 section 2 of the consumer financial services act, 1988 PA 161, MCL
4 487.2052.

5 (n) "Licensee" means a person that is licensed to engage in
6 the business of providing deferred presentment service transactions
7 under this act.

8 (o) "Maturity date" means the date on which a drawer's check
9 is to be redeemed, presented for payment, or entered into the
10 check-clearing process in a deferred presentment service
11 transaction.

12 (p) "Office" or "office of financial and insurance services"
13 means the department.

14 (q) "Person" means an individual, partnership, association,
15 corporation, limited liability company, or other legal entity
16 except a governmental entity.

17 (r) "Redeem" means that the customer pays to the licensee an
18 amount equal to the face amount of a check included in a deferred
19 presentment service transaction, on or before the maturity date or
20 after the check is deposited and returned unpaid by the drawee, and
21 the licensee returns the check to the customer.

22 **(S) "SMALL LOAN" MEANS A SMALL LOAN UNDER THE SMALL LOAN**
23 **REGULATORY ACT.**

24 (2) Deferred presentment service transaction does not include
25 a delay in presentment of a loan repayment check, at the request of
26 the borrower, by a person that is licensed or registered under ~~the~~
27 ~~consumer financial services act, 1988 PA 161, MCL 487.2051 to~~

1 ~~487.2072, the regulatory loan act, 1939 PA 21, MCL 493.1 to 493.24,~~
 2 ~~the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81,~~
 3 ~~the motor vehicle sales finance act, 1950 (Ex Sess) PA 27, MCL~~
 4 ~~492.101 to 492.141, 1984 PA 379, MCL 493.101 to 493.114, the money~~
 5 ~~transmission services act, 2006 PA 250, MCL 487.1001 to 487.1047,~~
 6 ~~or the mortgage brokers, lenders, and servicers licensing act, 1987~~
 7 ~~PA 173, MCL 445.1651 to 445.1684.~~ **ANY OF THE FINANCIAL LICENSING**
 8 **ACTS.**

9 Sec. 11. (1) Subject to subsection (2), a person shall not
 10 engage in the business of providing deferred presentment service
 11 transactions ~~after June 1, 2006~~ **THROUGH ANY METHOD, INCLUDING, BUT**
 12 **NOT LIMITED TO, MAIL, TELEPHONE, INTERNET, MOBILE DEVICE**
 13 **APPLICATION, OR IN PERSON,** without a license under this act.

14 (2) A separate license is required for each location from
 15 which the business of providing deferred presentment service
 16 transactions is conducted. **HOWEVER, A PERSON THAT IS LICENSED UNDER**
 17 **THIS ACT AND THE SMALL LOAN REGULATORY ACT MAY ENGAGE IN THE**
 18 **BUSINESS OF PROVIDING DEFERRED PRESENTMENT SERVICE TRANSACTIONS AND**
 19 **SMALL LOANS AT THE SAME LOCATION UNDER THOSE SEPARATE LICENSES.**

20 (3) ~~(2)~~ This act does not apply to a state or nationally
 21 chartered bank or a state or federally chartered savings and loan
 22 association, savings bank, or credit union whose deposits or member
 23 accounts are insured by an agency of the United States government.

24 (4) ~~(3)~~ By January 1, 2006, the ~~commissioner~~ **DIRECTOR** by
 25 administrative bulletin, order, or rule shall establish an
 26 application process and an application timeline for license
 27 applications under this act.

1 (5) ~~(4)~~ A person may continue to engage in the business of
2 providing deferred presentment service transactions in this state
3 after June 1, 2006 and without a license until 1 of the following
4 occurs:

5 (a) The person fails to meet its applications deadline.

6 (b) The ~~commissioner~~ **DIRECTOR** acts on the person's complete
7 application.

8 Sec. 22. (1) ~~On or before December 31, 2006, the commissioner~~
9 **THE DIRECTOR** shall develop, implement, and maintain a statewide,
10 common database that has real-time access through an internet
11 connection, is accessible at all time to licensees **UNDER THIS ACT**
12 **AND THE SMALL LOAN REGULATORY ACT**, and to the ~~commissioner~~ **DIRECTOR**
13 for purposes of subsections (10) and (11), and meets the
14 requirements of this section. ~~Before the commissioner determines~~
15 ~~that the database is fully operational for the purposes of this~~
16 ~~act, for at least 30 days the database provider shall operate a~~
17 ~~pilot program of the database to test all of the processes of the~~
18 ~~database. The database provider shall make the pilot program~~
19 ~~available to all applicants and licensees. During the 30 day period~~
20 ~~that begins on the date the commissioner determines that the~~
21 ~~database is fully operational, the commissioner shall not approve~~
22 ~~the imposition of any database verification fees under section~~
23 ~~34(5).~~

24 (2) The ~~commissioner~~ **DIRECTOR** may operate the database
25 described in subsection (1) or may select and contract with a
26 single third party provider to operate the database. If the
27 ~~commissioner~~ **DIRECTOR** contracts with a third party provider for the

1 operation of the database, all of the following apply:

2 (a) The ~~commissioner~~**DIRECTOR** shall ensure that the third
3 party provider selected as the database provider operates the
4 database pursuant to the provisions of this act.

5 (b) The ~~commissioner~~**DIRECTOR** shall consider cost of service
6 and ability to meet all the requirements of this section in
7 selecting a third party provider as the database provider.

8 (c) In selecting a third party provider to act as the database
9 provider, the ~~commissioner~~**DIRECTOR** shall give strong consideration
10 to the third party provider's ability to prevent fraud, abuse, and
11 other unlawful activity associated with deferred presentment
12 service transactions and provide additional tools for the
13 administration and enforcement of this act.

14 (d) The third party provider shall only use the data collected
15 under this act as prescribed in this act and the contract with the
16 ~~office~~**DEPARTMENT** and for no other purpose.

17 (e) If the third party provider violates this section, the
18 ~~commissioner~~**DIRECTOR** shall terminate the contract and the third
19 party provider is barred from becoming a party to any other state
20 contracts.

21 (f) A person injured by the third party provider's violation
22 of this act may maintain a civil cause of action against the third
23 party provider and may recover actual damages plus reasonable
24 attorney fees.

25 (3) The database described in subsection (1) shall allow a
26 licensee ~~accessing~~**UNDER THIS ACT OR THE SMALL LOAN REGULATORY ACT**
27 **TO ACCESS** the database to do all of the following:

1 (a) Verify whether a customer has any open deferred
2 presentment service transactions with any licensee that have not
3 been closed.

4 (b) Provide information necessary to ensure licensee
5 compliance with any requirements imposed by the federal ~~office of~~
6 ~~foreign asset control~~ **OFFICE OF FOREIGN ASSET CONTROL** under federal
7 law.

8 (c) Track and monitor the number of customers who notify a
9 licensee of violations of this act, the number of times a licensee
10 agreed that a violation occurred, the number of times that a
11 licensee did not agree that a violation occurred, the amount of
12 restitution paid, and any other information the ~~commissioner~~
13 **DIRECTOR** requires by rule.

14 (d) Determine whether a customer is eligible for repayment of
15 the deferred presentment service transaction in installments as
16 provided in section 35(2) and notify the licensee of that
17 eligibility.

18 (4) While operating the database, the database provider shall
19 do all of the following:

20 (a) Establish and maintain a process for responding to
21 transaction verification requests due to technical difficulties
22 occurring with the database that prevent the licensee from
23 accessing the database through the internet.

24 (b) Comply with any applicable provisions of the social
25 security number privacy act, 2004 PA 454, MCL 445.81 to 445.87.

26 (c) Comply with any applicable provisions of the identity
27 theft protection act, 2004 PA 452, MCL 445.61 to ~~445.77~~ **445.79D**.

1 (d) Provide accurate and secure receipt, transmission, and
2 storage of customer data.

3 (e) Meet the requirements of this act.

4 (5) When the database provider receives notification that a
5 deferred presentment service transaction is closed under section
6 34, the database provider shall designate the transaction as closed
7 in the database immediately, but in no event after 11:59 p.m. on
8 the day the ~~commissioner~~**DIRECTOR** or database provider receives
9 notification.

10 (6) The database provider shall automatically designate a
11 deferred presentment service transaction as closed in the database
12 5 days after the transaction maturity date unless a licensee
13 reports to the database provider before that time that the
14 transaction remains open because of the customer's failure to make
15 payment; that the transaction is open because the customer's check
16 or an electronic redeposit is in the process of clearing the
17 banking system; or that the transaction remains open because the
18 customer's check is being returned to the licensee for insufficient
19 funds, a closed account, or a stop payment order, or any other
20 factors determined by the commissioner. If a licensee reports the
21 status of a transaction as open in a timely manner, the transaction
22 remains an open transaction until it is closed under section 34 and
23 the database provider is notified that the transaction is closed
24 under that section.

25 (7) If a licensee stops providing deferred presentment service
26 transactions, the database provider shall designate all open
27 transactions with that licensee as closed in the database 60 days

1 after the date the licensee stops offering deferred presentment
2 service transactions, unless the licensee reports to the database
3 provider before the expiration of the 60-day period which of its
4 transactions remain open and the specific reason each transaction
5 remains open. The licensee shall also provide to the ~~commissioner~~
6 **DIRECTOR** a reasonably acceptable plan that outlines how the
7 licensee will continue to update the database after it stops
8 offering deferred presentment service transactions. The
9 ~~commissioner~~**DIRECTOR** shall promptly approve or disapprove the plan
10 and immediately notify the licensee of his or her decision. If the
11 plan is disapproved, the licensee may submit a new plan or may
12 submit a modified plan for the licensee to follow. If at any time
13 the ~~commissioner~~**DIRECTOR** reasonably determines that a licensee
14 that has stopped offering deferred presentment service transactions
15 is not updating the database in accordance with its approved plan,
16 the ~~commissioner~~**DIRECTOR** shall immediately close or instruct the
17 database provider to immediately close all remaining open
18 transactions of that licensee.

19 (8) The response to an inquiry to the database provider by a
20 licensee shall only state that a person is eligible or ineligible
21 for a new deferred presentment service transaction and describe the
22 reason for that determination. Only the person seeking the
23 transaction may make a direct inquiry to the database provider to
24 request a more detailed explanation of a particular transaction
25 that was the basis for the ineligibility determination. Any
26 information regarding any person's transactional history is
27 confidential, is not subject to public inspection, is not a public

1 record subject to the disclosure requirements of the freedom of
2 information act, 1976 PA 442, MCL 15.231 to 15.246, is not subject
3 to discovery, subpoena, or other compulsory process except in an
4 action under section 53, and shall not be disclosed to any person
5 other than the commissioner.

6 (9) The database provider may charge licensees **UNDER THIS ACT**
7 a verification fee for access to the database, in amounts approved
8 by the ~~commissioner~~**DIRECTOR** under section 34(5). **THE DATABASE**
9 **PROVIDER MAY CHARGE LICENSEES UNDER THE SMALL LOAN REGULATORY ACT A**
10 **VERIFICATION FEE FOR ACCESS TO THE DATABASE, IN AMOUNTS APPROVED BY**
11 **THE DIRECTOR.**

12 (10) The ~~commissioner~~**DIRECTOR** may access the database
13 provided under subsection (1) only for purposes of an investigation
14 of, examination of, or enforcement action concerning an individual
15 database provider, licensee, customer, or other person. The
16 ~~commissioner~~**DIRECTOR** and any employees of the commissioner, the
17 office, or this state shall not obtain or access a customer's
18 social security number, driver license number, or other state-
19 issued identification number in the database except as provided in
20 this subsection. An individual who violates this subsection is
21 guilty of a misdemeanor punishable by imprisonment for not more
22 than 93 days or a fine of not more than \$1,000.00, or both, and if
23 convicted, an individual who violates this subsection shall be
24 dismissed from office or discharged from employment.

25 (11) The ~~commissioner~~**DIRECTOR** shall investigate violations of
26 and enforce this section. The ~~commissioner~~**DIRECTOR** shall not
27 delegate its responsibilities under this subsection to any third

1 party provider.

2 (12) The ~~commissioner~~**DIRECTOR** shall do all of the following:

3 (a) Require by rule that data are retained in the database
4 only as required to ensure licensee compliance with this act.

5 (b) Require by rule that data in the database concerning a
6 customer transaction are archived within 365 days after the
7 customer transaction is closed unless needed for a pending
8 enforcement action.

9 (c) Require by rule that any identifying customer information
10 is deleted from the database when data are archived.

11 (d) Require by rule that data in the database concerning a
12 customer transaction are deleted from the database 3 years after
13 the customer transaction is closed or any enforcement action
14 pending 3 years after the customer transaction is closed is
15 completed, whichever is later.

16 (13) The ~~commissioner~~**DIRECTOR** may maintain access to data
17 archived under subsection (12) for future legislative or policy
18 review.

19 **(14) THE DEPARTMENT BY RULE MAY PROVIDE FOR A SINGLE, COMBINED**
20 **DATABASE FOR PURPOSES OF THIS ACT AND THE SMALL LOAN REGULATORY**
21 **ACT, IF THE COMBINED DATABASE MEETS THE REQUIREMENTS OF THIS**
22 **SECTION AND SECTION 19 OF THE SMALL LOAN REGULATORY ACT.**

23 Sec. 31. (1) A licensee shall post prominently in an area
24 designed to be seen by the customer before he or she enters into a
25 deferred presentment service transaction the following notice in at
26 least 36-point type:

27 "1. A deferred presentment service transaction is not intended

1 to meet long-term financial needs. We can only defer cashing your
2 check for up to 31 days.

3 2. You should use this service only to meet short-term cash
4 needs.

5 3. State law prohibits us from entering into a transaction
6 with you if you already have a deferred presentment service
7 agreement in effect with us or have more than one deferred
8 presentment service agreement in effect with any other person who
9 provides this service.

10 4. If you enter into a transaction with us, we must
11 immediately give you a copy of your signed agreement.

12 5. We will pay the proceeds of a transaction to you by check,
13 by money order, or in cash, as you request.

14 6. State law entitles you to the right to cancel an agreement
15 and receive a refund of the fee. To do this, if you enter into a
16 transaction today, you must notify us and return the money you
17 receive by the time this office closes tomorrow or on our next
18 business day if we are not open tomorrow.

19 7. State law prohibits us from renewing an agreement for a
20 fee. You have to pay any other agreement in full before obtaining
21 additional money from us.

22 8. State law prohibits us from using any criminal process to
23 collect on an agreement.

24 9. State law entitles you to information regarding filing a
25 complaint against us if you believe that we have violated the law.
26 If you feel we are acting unlawfully, you should call the ~~Office of~~
27 ~~Financial and Insurance Services~~ **DEPARTMENT OF INSURANCE AND**

1 **FINANCIAL SERVICES** toll-free at 1-877-999-6442.

2 10. If you are unable to pay your deferred presentment service
3 transaction and have entered into 8 deferred presentment service
4 transactions with any licensee in any 12-month period, state law
5 entitles you to request a repayment of that transaction in
6 installments. We are required to advise you of this option at the
7 time it is available. If you elect this option, you must notify us,
8 either orally or in writing, within 30 days after the maturity date
9 of the deferred presentment transaction. The notice must be
10 provided to us at our place of business. You may be charged an
11 additional fee when the transaction is rescheduled in installments.
12 You will be ineligible to enter into a deferred presentment service
13 transaction with any licensee during the term of the repayment
14 plan. If we refuse to provide this option under the stipulations
15 above, you should contact the ~~Office of Financial and Insurance~~
16 ~~Services~~ **DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES** toll-free
17 at 1-877-999-6442.".

18 (2) A licensee shall post prominently in an area designed to
19 be seen by the customer before he or she enters into a deferred
20 presentment service transaction a schedule of all fees and charges
21 imposed for deferred presentment service transactions in at least
22 36-point type.

23 (3) **A LICENSEE THAT CONDUCTS DEFERRED PRESENTMENT SERVICE**
24 **TRANSACTIONS ON THE INTERNET SHALL POST THE NOTICE DESCRIBED IN**
25 **SUBSECTION (1) AND THE FEE SCHEDULE DESCRIBED IN SUBSECTION (2) IN**
26 **A PROMINENT AND CONSPICUOUS PLACE ON ITS INTERNET WEBSITE THAT IS**
27 **FULLY ACCESSIBLE TO ITS CUSTOMERS AND THE PUBLIC.**

1 Sec. 32. (1) A licensee shall document a deferred presentment
2 service transaction by entering into a written deferred presentment
3 service agreement signed by both the customer and the licensee.

4 (2) A licensee shall include all of the following in the
5 written deferred presentment service agreement:

6 (a) The name of the customer.

7 (b) The name, street address, facsimile number, and telephone
8 number of the licensee.

9 (c) The signature and printed or typed name of the individual
10 who enters into the deferred presentment service agreement on
11 behalf of the licensee.

12 (d) The date of the transaction.

13 (e) The transaction number assigned by the database provider,
14 if any.

15 (f) The amount of the check presented to the licensee by the
16 customer.

17 (g) An itemization of the fees to be paid by the customer.

18 (h) A calculation of the cost of the fees and charges to the
19 customer, expressed as a percentage rate per year.

20 (i) A clear description of the customer's payment obligation
21 under the agreement.

22 (j) A schedule of all fees associated with the deferred
23 presentment service transaction and an example of the amounts the
24 customer would pay based on the amount of the deferred presentment
25 service transaction.

26 (k) The maturity date.

27 (l) A provision that the licensee will defer presentment,

1 defer negotiation, and defer entering a check into the check-
2 clearing process until the maturity date.

3 (m) A description of the process a drawer may use to file a
4 complaint against the licensee.

5 (n) The following notice in at least 12-point type:

6 "1. A deferred presentment service transaction is not intended
7 to meet long-term financial needs. We can only defer cashing your
8 check for up to 31 days.

9 2. You should use this service only to meet short-term cash
10 needs.

11 3. State law prohibits us from entering into this transaction
12 with you if you already have a deferred presentment service
13 agreement in effect with us or have more than one deferred
14 presentment service agreement in effect with any other person who
15 provides this service.

16 4. We must immediately give you a copy of your signed
17 agreement.

18 5. We will pay the proceeds of this transaction to you by
19 check, by money order, or in cash, as you request.

20 6. State law entitles you to the right to cancel this
21 agreement and receive a refund of the fee. To do this, you must
22 notify us and return the money you receive today by the time this
23 office closes tomorrow or on our next business day if we are not
24 open tomorrow.

25 7. State law prohibits us from renewing this agreement for a
26 fee. You have to pay an agreement in full before obtaining
27 additional money from us.

1 8. State law prohibits us from using any criminal process to
2 collect on this agreement.

3 9. State law entitles you to information regarding filing a
4 complaint against us if you believe that we have violated the law.
5 If you feel we are acting unlawfully, you should call the ~~Office of~~
6 ~~Financial and Insurance Services~~ **DEPARTMENT OF INSURANCE AND**
7 **FINANCIAL SERVICES** toll-free at 1-877-999-6442.

8 10. If you are unable to pay your deferred presentment service
9 transaction and have entered into 8 deferred presentment service
10 transactions with any licensee in any 12-month period, state law
11 entitles you to request a repayment of that transaction in
12 installments. We are required to advise you of this option at the
13 time it is available. If you elect this option, you must notify us,
14 either orally or in writing, within 30 days after the maturity date
15 of the deferred presentment transaction. The notice must be
16 provided to us at our place of business. You may be charged an
17 additional fee when the transaction is rescheduled in installments.
18 You will be ineligible to enter into a deferred presentment service
19 transaction with any licensee during the term of the repayment
20 plan. If we refuse to provide this option under the stipulations
21 above, you should contact the ~~Office of Financial and Insurance~~
22 ~~Services~~ **DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES** toll-free
23 at 1-877-999-6442.".

24 (3) A licensee may include an arbitration provision in a
25 deferred presentment service transaction agreement if the
26 arbitration provision meets all of the following:

27 (a) Provides that the licensee agrees to pay any costs of the

1 arbitration.

2 (b) Provides that an arbitration proceeding shall be held
3 within 10 miles of the drawer's address contained in the deferred
4 presentment service transaction agreement unless the drawer
5 consents to another location after an arbitrable dispute occurs.

6 (c) Provides that an arbitration proceeding shall be conducted
7 by a neutral arbitrator who was not and is not currently being paid
8 by the licensee and who has no financial interest in a party to the
9 arbitration.

10 (d) Requires that the arbitrator shall provide the drawer with
11 all the substantive rights that the drawer would have if the
12 drawer's claim were asserted in a court proceeding and shall not
13 limit any other claim or defense the drawer has concerning the
14 claim.

15 Sec. 33. (1) A licensee may enter into 1 deferred presentment
16 service transaction with a customer for any amount up to \$600.00. A
17 licensee may charge the customer a service fee for each deferred
18 presentment service transaction. A service fee is earned by the
19 licensee on the date of the transaction and is not interest. A
20 licensee may charge both of the following as part of the service
21 fee, as applicable:

22 (a) An amount that does not exceed the aggregate of the
23 following, as applicable:

24 (i) Fifteen percent of the first \$100.00 of the deferred
25 presentment service transaction.

26 (ii) Fourteen percent of the second \$100.00 of the deferred
27 presentment service transaction.

1 (iii) Thirteen percent of the third \$100.00 of the deferred
2 presentment service transaction.

3 (iv) Twelve percent of the fourth \$100.00 of the deferred
4 presentment service transaction.

5 (v) Eleven percent of the fifth \$100.00 of the deferred
6 presentment service transaction.

7 (vi) Eleven percent of the sixth \$100.00 of the deferred
8 presentment service transaction.

9 (b) The amount of any database verification fee allowed under
10 section 34(5).

11 (2) A licensee shall not enter into a deferred presentment
12 service transaction with a customer if the customer has an open
13 deferred presentment service transaction with the licensee or has
14 more than 1 open deferred presentment service transaction with any
15 other licensee, and shall verify whether the customer has an open
16 deferred presentment service transaction with the licensee or has
17 more than 1 open deferred presentment service transaction with any
18 other licensee by complying with section 34.

19 (3) At the time of entering into a deferred presentment
20 service transaction, a licensee shall do all of the following:

21 (a) Before the drawer signs the agreement, provide the
22 following notice to the drawer, in a document separate from the
23 agreement and in at least 12-point type:

24 "1. After signing this agreement, if you believe that we have
25 violated the law, you may do 1 of the following:

26 a. Before the close of business on the day you sign the
27 agreement, notify us in person of the violation. You must provide

1 supporting documents or other evidence of the violation.

2 b. At any time before signing a new deferred presentment
3 service agreement with us, notify us in writing of the violation.
4 Your written notice must state the violation and provide supporting
5 documents or other evidence of the violation.

6 2. We have 3 business days to determine if we agree that we
7 have violated the law and let you know of that determination.

8 3. If we agree that we have violated the law, we must return
9 your check and you must return the cash received under the
10 agreement. Additionally, for each violation, we must pay you
11 restitution equal to 5 times the amount of the fee we charged you
12 under the agreement but not less than \$15.00 or more than the face
13 amount of your check. You may also pursue an action for your actual
14 damages against us.

15 4. If we do not agree that we have violated the law, we may
16 present your check for payment or enter your check into the check-
17 clearing process on or after the maturity date. If your check is
18 returned to us unpaid, we may take other legal steps to collect our
19 money.

20 5. If you still believe we violated the law, you may file a
21 written complaint including supporting documents or other evidence
22 with the ~~Office of Financial and Insurance Services.~~ **DEPARTMENT OF**
23 **INSURANCE AND FINANCIAL SERVICES.** The ~~Office~~ **DEPARTMENT** is required
24 to investigate your complaint and has the authority to order us to
25 pay you restitution if they agree that we violated the law. In
26 addition, the ~~Office~~ **DEPARTMENT** can order us to pay civil fines or
27 take away our right to do business. To do so, contact the ~~Office of~~

1 ~~Financial and Insurance Services~~ **DEPARTMENT OF INSURANCE AND**
2 **FINANCIAL SERVICES** toll-free at 1-877-999-6442."

3 (b) Provide a copy of the signed agreement to the drawer.

4 (c) Pay the proceeds under the agreement to the drawer by
5 delivering a business check of the licensee, a money order, or
6 cash, as requested by the drawer.

7 (4) At the time of entering into a deferred presentment
8 service transaction, a licensee shall not do any of the following:

9 (a) Charge interest under the agreement.

10 (b) Include a maturity date that is more than 31 days after
11 the date of the transaction.

12 (c) Charge an additional fee for cashing the licensee's
13 business check or money order if the licensee pays the proceeds to
14 the drawer by business check or money order.

15 (d) Include a confession of judgment in the agreement.

16 (e) Except as provided in this act, charge or collect any
17 other fees for a deferred presentment service transaction.

18 (5) A licensee shall not refuse to provide a deferred
19 presentment service transaction to a customer solely because the
20 customer has exercised his or her rights under this act.

21 (6) Each licensee shall post a ~~sign~~, **NOTICE**, printed in ~~bold~~
22 ~~faced~~, **BOLDFACED**, 36-point type, in a conspicuous location at each
23 customer service window, station, or desk at each place of
24 business, that states the following:

25 "Under Michigan law, you are entitled to receive the proceeds
26 of this transaction in cash. If you request the proceeds in a check
27 or money order, you may be charged additional check cashing or

1 other processing fees by others for cashing the check or money
2 order.".

3 (7) A LICENSEE THAT CONDUCTS DEFERRED PRESENTMENT SERVICE
4 TRANSACTIONS ON THE INTERNET SHALL POST THE NOTICE DESCRIBED IN
5 SUBSECTION (6) IN A PROMINENT AND CONSPICUOUS PLACE ON ITS INTERNET
6 WEBSITE THAT IS FULLY ACCESSIBLE TO ITS CUSTOMERS AND THE PUBLIC.

7 Sec. 35. (1) A licensee shall not renew a deferred presentment
8 service agreement. A licensee may extend a deferred presentment
9 service agreement only if the licensee does not charge a fee in
10 connection with the extended transaction. A licensee who extends an
11 agreement under this subsection shall not create a balance owed
12 above the amount owed on the original agreement.

13 (2) If a drawer enters into 8 deferred presentment service
14 transactions with any licensee in any 12-month period, the licensee
15 shall provide the drawer an option to repay that eighth transaction
16 and each additional transaction in that 12-month period pursuant to
17 a written repayment plan subject to the following terms:

18 (a) The drawer shall request the repayment plan, either orally
19 or in writing, within 30 days after the maturity date of the
20 deferred presentment service transaction.

21 (b) The drawer shall repay the transaction in 3 equal
22 installments with 1 installment due on each of the next 3 dates on
23 which the drawer receives regular wages or compensation from an
24 employer or other regular source of income, pursuant to a written
25 repayment plan agreement.

26 (c) The drawer shall pay a fee to the licensee for
27 administration of the repayment plan. The initial amount of the fee

1 is \$15.00. Beginning March 1, 2011, and by March 1 of every fifth
2 year after March 1, 2011, the licensee may adjust the fee by an
3 amount determined by the director to reflect the cumulative
4 percentage change in the Detroit consumer price index over the
5 preceding 5 calendar years. As used in this subsection, "Detroit
6 consumer price index" means the most comprehensive index of
7 consumer prices available for the Detroit area from the Bureau of
8 Labor Statistics of the United States Department of Labor.

9 (d) The drawer shall agree not to enter into any additional
10 deferred presentment transactions during the repayment plan term.

11 (3) A licensee shall advise a customer of the repayment option
12 described in subsection (2) at the time he or she is eligible. If a
13 customer believes he or she has been illegally denied the repayment
14 option under this section, he or she is entitled to contact the
15 department toll-free at 1-877-999-6442. If a customer has entered
16 into 8 deferred presentment service transactions in any 12-month
17 period, the database provider shall notify the licensee when the
18 licensee submits the required customer information to the database
19 for that customer that the customer is entitled to a repayment plan
20 under this section. The database provider shall instruct the
21 licensee to provide the customer with the following notice, in a
22 document separate from the deferred presentment transaction
23 agreement and in at least 12-point type:

24 "If you are unable to pay your deferred presentment service
25 transaction and have entered into 8 deferred presentment
26 transactions in any 12-month period, state law entitles you to
27 request a repayment of that transaction in installments. We are

1 required to advise you of this option at the time it is available.
2 If you elect this option, you must notify us, either orally or in
3 writing, within 30 days after the maturity date of the eighth
4 deferred presentment transaction in the 12-month period. The notice
5 must be provided to us at our place of business. You may be charged
6 an additional fee when the transaction is rescheduled in
7 installments. You will be ineligible to enter into a deferred
8 presentment service transaction with any licensee during the term
9 of the repayment plan. If we refuse to provide this option under
10 the stipulations above, you should contact the ~~department of~~
11 ~~insurance and financial services~~ **DEPARTMENT OF INSURANCE AND**
12 **FINANCIAL SERVICES** toll-free at 1-877-999-6442."

13 (4) During the term of a repayment plan by a drawer under this
14 section, the database provider shall notify the licensee at the
15 time the licensee submits the required customer information to the
16 database for that customer that the customer is presently in a
17 repayment plan under this section with 1 or more other licensees
18 and the licensee shall not enter into a deferred presentment
19 transaction with that individual.

20 (5) A licensee shall not present a check for payment before
21 the maturity date or during the term of the repayment plan. In
22 addition to the remedies and penalties under this act, a licensee
23 that presents a check for payment before the maturity date or
24 during the term of the repayment plan is liable for all expenses
25 and damages caused to the drawer and the drawee as a result of the
26 violation. If a drawer has not requested a repayment plan on or
27 before the maturity date, the licensee may redeem, present for

1 payment, or enter the check into the check-clearing process under
2 the terms of the original deferred presentment service transaction
3 agreement.

4 (6) A drawer satisfies his or her obligation under a deferred
5 presentment service agreement when the check the licensee is
6 holding is paid by the drawee or is redeemed by the drawer by
7 paying to the licensee an amount equal to the full amount of the
8 check.

9 (7) Unless the drawer has entered into a written repayment
10 plan under subsection (2), a licensee shall deposit a check held in
11 connection with a deferred presentment service transaction on the
12 maturity date if the check is not redeemed in the manner described
13 in section 2(1)(c)(i), or exchanged in the manner described in
14 section 2(1)(c)(ii), on or before the maturity date.

15 (8) A licensee shall deposit a check held in connection with a
16 deferred presentment service transaction on any repayment plan
17 installment date described in subsection (2) if the drawer fails to
18 make the installment payment.

19 (9) If the drawer has an outstanding deferred presentment
20 service transaction in which a check held in connection with the
21 transaction was deposited and returned unpaid, the licensee may
22 collect the check by means of 1 or more telephone-initiated entries
23 if all of the following are met:

24 (a) The drawer agrees to each telephone-initiated entry.

25 (b) Each telephone-initiated entry is a single, date-specific
26 payment and does not authorize more than 1 payment or periodic
27 payments.

1 (c) The licensee does not charge the drawer a fee in
2 connection with the telephone-initiated entry or entries.

3 (10) If the payment to satisfy an outstanding deferred
4 presentment transaction obligation is made in person, the licensee
5 shall immediately return the check held in connection with the
6 deferred presentment service transaction to the drawer. If the
7 payment to satisfy the obligation is not made in person, the
8 licensee shall return the check to the drawer by mailing it to the
9 address listed on the deferred presentment transaction service
10 agreement within 1 business day after the licensee obtains evidence
11 that the drawer has satisfied the obligation.

12 (11) A licensee shall only accept a payment by debit card to
13 redeem a check the licensee is holding if the drawer certifies to
14 the licensee that the debit card draws funds from the same account
15 on which the check is drawn.

16 (12) As used in this section, "telephone-initiated entry"
17 means a debit transaction to a drawer's account that is processed
18 through an automated clearing house, as that term is defined in
19 section 1 of 2002 PA 738, MCL 124.301, and initiated pursuant to an
20 authorization obtained from the drawer orally by telephone.

21 Enacting section 1. This amendatory act takes effect 90 days
22 after the date it is enacted into law.

23 Enacting section 2. This amendatory act does not take effect
24 unless Senate Bill No._431

25 of the 99th Legislature is enacted into law.