

HOUSE BILL NO. 4515

March 16, 2021, Introduced by Reps. Sowerby, Brixie, Brabec, Rogers, Brann, Howell, Kuppa, Cherry, Clemente, Sneller, Aiyash, Anthony, Cynthia Johnson, Ellison, Garza, Liberati, Hope, Brenda Carter, Young, Koleszar, Puri, Stone, Hood, O'Neal, Tate, Camilleri, Pohutsky, Haadsma, Hammoud, Cavanagh, Scott and Morse and referred to the Committee on Financial Services.

A bill to amend 2005 PA 244, entitled
"Deferred presentment service transactions act,"
by amending sections 22, 31, 32, 33, 34, and 40 (MCL 487.2142,
487.2151, 487.2152, 487.2153, 487.2154, and 487.2160).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 22. (1) On or before December 31, 2006, the ~~commissioner~~
2 **director** shall develop, implement, and maintain a statewide, common
3 database that has real-time access through an internet connection,
4 is accessible at all time to licensees, and to the ~~commissioner~~

director for purposes of subsections (10) and (11), and meets the requirements of this section. Before the ~~commissioner~~**director** determines that the database is fully operational for the purposes of this act, for at least 30 days the database provider shall operate a pilot program of the database to test all of the processes of the database. The database provider shall make the pilot program available to all applicants and licensees. During the 30-day period that begins on the date the ~~commissioner~~**director** determines that the database is fully operational, the ~~commissioner~~**director** shall not approve the imposition of any database verification fees under section 34(5).

(2) The ~~commissioner~~**director** may operate the database described in subsection (1) or may select and contract with a single ~~third party~~**third-party** provider to operate the database. If the ~~commissioner~~**director** contracts with a ~~third party~~**third-party** provider for the operation of the database, all of the following apply:

(a) The ~~commissioner~~**director** shall ensure that the ~~third party~~**third-party** provider selected as the database provider operates the database ~~pursuant to~~**in a manner that complies with** the provisions of this act.

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

(c) In selecting a ~~third party~~**third-party** provider to act as the database provider, the ~~commissioner~~**director** shall give strong consideration to the ~~third party~~**third-party** provider's ability to prevent fraud, abuse, and other unlawful activity associated with

1 deferred presentment service transactions and provide additional
2 tools for the administration and enforcement of this act.

3 (d) The ~~third party~~**third-party** provider shall only use the
4 data collected under this act as prescribed in this act and the
5 contract with the ~~office~~**department** and for no other purpose.

6 (e) If the ~~third party~~**third-party** provider violates this
7 section, the ~~commissioner~~**director** shall terminate the contract and
8 the ~~third party~~**third-party** provider is barred from becoming a
9 party to any other state contracts.

10 (f) A person injured by ~~the a third party~~**third-party**
11 provider's violation of this act may maintain a civil cause of
12 action against the ~~third party~~**third-party** provider and may recover
13 actual damages plus reasonable attorney fees.

14 (3) The database described in subsection (1) ~~shall~~**must** allow
15 a licensee accessing the database to do all of the following:

16 (a) Verify whether a customer has any open deferred
17 presentment service transactions with any licensee that ~~have not~~
18 ~~been closed~~**were not closed on the date the licensee accessed the**
19 **database or were closed in the 30-day period preceding that date.**

20 (b) Provide information necessary to ensure licensee
21 compliance with any requirements imposed by the ~~federal office of~~
22 ~~foreign asset control~~**Office of Foreign Assets Control** under
23 federal law.

24 (c) Track and monitor the number of customers who notify a
25 licensee of violations of this act, the number of times a licensee
26 agreed that a violation occurred, the number of times that a
27 licensee did not agree that a violation occurred, the amount of
28 restitution paid, and any other information the ~~commissioner~~
29 **director** requires by rule.

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

(4) While operating the database **described in subsection (1)**, the database provider shall do all of the following:

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

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

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

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

(e) Meet the requirements of this act.

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

(6) The database provider shall automatically designate a deferred presentment service transaction as closed in the database 5 days after the transaction maturity date unless a licensee reports to the database provider before that time that the transaction remains open because of the customer's failure to make payment, ~~that~~ the transaction is open because the customer's

1 check or an electronic redeposit is in the process of clearing the
2 banking system, ~~or~~ that the transaction remains open because the
3 customer's check is being returned to the licensee for insufficient
4 funds, a closed account, or a stop payment order, or any other
5 factors determined by the ~~commissioner~~-**director**. If a licensee
6 reports the status of a transaction as open in a timely manner, the
7 transaction remains an open transaction until it is closed under
8 section 34 and the database provider is notified that the
9 transaction is closed under that section.

10 (7) If a licensee stops providing deferred presentment service
11 transactions, the database provider shall designate all open
12 transactions with that licensee as closed in the database 60 days
13 after the date the licensee stops offering deferred presentment
14 service transactions, unless the licensee reports to the database
15 provider before the expiration of the 60-day period which of its
16 transactions remain open and the specific reason each transaction
17 remains open. The licensee shall also provide to the ~~commissioner~~
18 **director** a reasonably acceptable plan that outlines how the
19 licensee will continue to update the database after it stops
20 offering deferred presentment service transactions. The
21 ~~commissioner~~-**director** shall promptly approve or disapprove the plan
22 and immediately notify the licensee of his or her decision. If the
23 plan is disapproved, the licensee may submit a new plan or may
24 submit a modified plan for the licensee to follow. If at any time
25 the ~~commissioner~~-**director** reasonably determines that a licensee
26 that has stopped offering deferred presentment service transactions
27 is not updating the database in accordance with its approved plan,
28 the ~~commissioner~~-**director** shall immediately close or instruct the
29 database provider to immediately close all remaining open

1 transactions of that licensee.

2 (8) The response to an inquiry to the database provider by a
3 licensee shall only state that a person is eligible or ineligible
4 for a new deferred presentment service transaction and describe the
5 reason for that determination. Only the person seeking the
6 transaction may make a direct inquiry to the database provider to
7 request a more detailed explanation of a particular transaction
8 that was the basis for the ineligibility determination. Any
9 information regarding ~~any~~ a person's transactional history is
10 confidential, is not subject to public inspection, is not a public
11 record subject to the disclosure requirements of the freedom of
12 information act, 1976 PA 442, MCL 15.231 to 15.246, is not subject
13 to discovery, subpoena, or other compulsory process except in an
14 action under section 53, and ~~shall~~ **must** not be disclosed to any
15 person other than the ~~commissioner~~ **director**.

16 (9) The database provider may charge licensees a verification
17 fee for access to the database, in amounts approved by the
18 ~~commissioner~~ **director** under section 34(5).

19 (10) The ~~commissioner~~ **director** may access the database
20 ~~provided under~~ **described in** subsection (1) only for purposes of an
21 investigation of, examination of, or enforcement action concerning
22 an individual database provider, licensee, customer, or other
23 person. The ~~commissioner~~ **director** and any employees of the
24 ~~commissioner, director, the office, department,~~ or this state shall
25 not obtain or access a customer's ~~social security~~ **Social Security**
26 number, driver license number, or other state-issued identification
27 number in the database except as provided in this subsection. An
28 individual who violates this subsection is guilty of a misdemeanor
29 punishable by imprisonment for not more than 93 days or a fine of

1 not more than \$1,000.00, or both, and if convicted, an individual
2 who violates this subsection ~~shall~~**must** be dismissed from office or
3 discharged from employment.

4 (11) The ~~commissioner~~**director** shall investigate violations of
5 and enforce this section. The ~~commissioner~~**director** shall not
6 delegate ~~its~~**his or her** responsibilities under this subsection to
7 ~~any a third party~~**third-party** provider.

8 (12) The ~~commissioner~~**director** shall do all of the following:

9 (a) Require by rule that data ~~are~~**be** retained in the database
10 only as required to ensure licensee compliance with this act.

11 (b) Require by rule that data in the database concerning a
12 customer transaction ~~are~~**be** archived within 365 days after the
13 customer transaction is closed unless needed for a pending
14 enforcement action.

15 (c) Require by rule that any identifying customer information
16 ~~is~~**be** deleted from the database when data are archived.

17 (d) Require by rule that data in the database concerning a
18 customer transaction ~~are~~**be** deleted from the database 3 years after
19 the customer transaction is closed or any enforcement action
20 pending 3 years after the customer transaction is closed is
21 completed, whichever is later.

22 (13) The ~~commissioner~~**director** may maintain access to data
23 archived under subsection (12) for future legislative or policy
24 review.

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

29 "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, **or were a party to a previous deferred**
10 **presentment service agreement that was in effect at any time in the**
11 **last 30 days.**

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

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

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

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

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

26 9. State law entitles you to information regarding filing a
27 complaint against us if you believe that we have violated the law.
28 If you feel we are acting unlawfully, you should call the ~~Office of~~
29 ~~Financial and Insurance~~ **Department of Insurance and Financial**

1 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 **Department of Insurance and Financial** Services toll-free at 1-877-
17 999-6442.".

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

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

28 (a) The name of the customer.

29 (b) The name, street address, facsimile number, and telephone

1 number of the licensee.

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

5 (d) The date of the transaction.

6 (e) The transaction number assigned by the database provider,
7 if any.

8 (f) The amount of the check presented to the licensee by the
9 customer.

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

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

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

15 (j) A schedule of all fees associated with the deferred
16 presentment service transaction and an example of the amounts the
17 customer would pay based on the amount of the deferred presentment
18 service transaction.

19 (k) The maturity date.

20 (l) A provision that the licensee will defer presentment, defer
21 negotiation, and defer entering a check into the check-clearing
22 process until the maturity date.

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

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

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

29 2. You should use this service only to meet short-term cash

1 needs.

2 3. State law prohibits us from entering into this transaction
3 with you if you already have a deferred presentment service
4 agreement in effect with us or ~~have more than one deferred~~
5 ~~presentment service agreement in effect with~~ any other person who
6 provides this service, **or if you were a party to a previous**
7 **deferred presentment service agreement that was in effect at any**
8 **time in the last 30 days.**

9 4. We must immediately give you a copy of your signed
10 agreement.

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

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

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

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

23 9. State law entitles you to information regarding filing a
24 complaint against us if you believe that we have violated the law.
25 If you feel we are acting unlawfully, you should call the ~~Office of~~
26 ~~Financial and Insurance~~ **Department of Insurance and Financial**
27 Services toll-free at 1-877-999-6442.

28 10. If you are unable to pay your deferred presentment service
29 transaction and have entered into 8 deferred presentment service

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

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

18 (a) Provides that the licensee agrees to pay any costs of the
19 arbitration.

20 (b) Provides that an arbitration proceeding ~~shall~~**must** be held
21 within 10 miles of the drawer's address contained in the deferred
22 presentment service transaction agreement unless the drawer
23 consents to another location after an arbitrable dispute occurs.

24 (c) Provides that an arbitration proceeding ~~shall~~**must** be
25 conducted by a neutral arbitrator who was not and is not currently
26 being paid by the licensee and who has no financial interest in a
27 party to the arbitration.

28 (d) Requires that the arbitrator shall provide the drawer with
29 all the substantive rights that the drawer would have if the

1 drawer's claim were asserted in a court proceeding and shall not
2 limit any other claim or defense the drawer has concerning the
3 claim.

4 Sec. 33. (1) A licensee may enter into 1 deferred presentment
5 service transaction with a customer for any amount up to \$600.00. A
6 licensee may charge the customer a service fee for each deferred
7 presentment service transaction. A service fee is earned by the
8 licensee on the date of the transaction and is not interest. A
9 licensee may charge both of the following as part of the service
10 fee, as applicable:

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

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

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

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

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

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

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

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

27 (2) A licensee shall not enter into a deferred presentment
28 service transaction with a customer if the customer has an open
29 deferred presentment service transaction with the licensee or ~~has~~

1 ~~more than 1 open deferred presentment service transaction with any~~
2 ~~other licensee, and shall or was a party to a previous deferred~~
3 ~~presentment service agreement with the licensee or any other~~
4 ~~licensee that was closed at any time in the last 30 days. The~~
5 ~~licensee shall~~ verify whether the customer has an open deferred
6 presentment service transaction with the licensee or ~~has more than~~
7 ~~1 open deferred presentment service transaction with any other~~
8 ~~licensee, or was a party to a previous deferred presentment service~~
9 ~~agreement with the licensee or any other licensee that was closed~~
10 ~~at any time in the last 30 days,~~ by complying with section 34.

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

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

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

18 a. Before the close of business on the day you sign the
19 agreement, notify us in person of the violation. You must provide
20 supporting documents or other evidence of the violation.

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

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

27 3. If we agree that we have violated the law, we must return
28 your check and you must return the cash received under the
29 agreement. Additionally, for each violation, we must pay you

1 restitution equal to 5 times the amount of the fee we charged you
2 under the agreement but not less than \$15.00 or more than the face
3 amount of your check. You may also pursue an action for your actual
4 damages against us.

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

10 5. If you still believe we violated the law, you may file a
11 written complaint including supporting documents or other evidence
12 with the ~~Office of Financial and Insurance~~ **Department of Insurance**
13 **and Financial** Services. The ~~Office~~ **Department** is required to
14 investigate your complaint and has the authority to order us to pay
15 you restitution if they agree that we violated the law. In
16 addition, the ~~Office~~ **Department** can order us to pay civil fines or
17 take away our right to do business. To do so, contact the ~~Office of~~
18 ~~Financial and Insurance~~ **Department of Insurance and Financial**
19 Services toll-free at 1-877-999-6442.".

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

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

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

26 (a) Charge interest under the agreement.

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

29 (c) Charge an additional fee for cashing the licensee's

business check or money order if the licensee pays the proceeds to the drawer by business check or money order.

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

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

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

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

"Under Michigan law, you are entitled to receive the proceeds of this transaction in cash. If you request the proceeds in a check or money order, you may be charged additional check cashing or other processing fees by others for cashing the check or money order."

(7) A deferred presentment service transaction that violates this section is void and uncollectible as to any principal, fee, or charge.

Sec. 34. (1) A licensee shall verify a customer's eligibility to enter into a deferred presentment service transaction by doing 1 of the following, as applicable:

(a) If the ~~commissioner~~ **director** has not implemented a database under section 22 or the database described in ~~section 22~~ **that section** is not fully operational, as determined by the ~~commissioner~~ **director**, verifying that the customer does not have an open deferred presentment service transaction with the licensee, **and was not a party to a previous deferred presentment service**

1 **agreement with the licensee that was closed at any time in the last**
 2 **30 days.** The licensee shall maintain a database of all of the
 3 licensee's transactions at all of its locations and search that
 4 database to meet its obligation under this subdivision.

5 (b) If the ~~commissioner~~**director** has implemented a database
 6 under section 22 and the database described in that section is
 7 fully operational, as determined by the ~~commissioner~~**director**,
 8 accessing the database and verifying that the customer does not
 9 have an outstanding deferred presentment service transaction with
 10 the licensee ~~and does not have more than 1 open deferred~~
 11 ~~presentment service transaction that has not been fully repaid or~~
 12 **with any other licensee, and was not a party to a previous deferred**
 13 **presentment service agreement with the licensee or any other**
 14 **licensee that was closed at any time in the last 30 days.**

15 (2) If the ~~commissioner~~**director** has not implemented a
 16 database under section 22, ~~the~~ database described in that section
 17 is not fully operational, as determined by the ~~commissioner~~**;**
 18 **director**, or the licensee is unable to access the database and the
 19 alternative mechanism for verification described in subsection (3)
 20 is also unavailable, as determined by the ~~commissioner~~**director**, a
 21 licensee may rely upon the written verification of the borrower in
 22 a statement provided in substantially the following form in at
 23 least 12-point type:

24 "I DO NOT HAVE ANY OUTSTANDING DEFERRED PRESENTMENT SERVICE
 25 TRANSACTIONS WITH THIS LICENSEE ~~AND I DO NOT HAVE MORE THAN ONE~~
 26 ~~OUTSTANDING DEFERRED PRESENTMENT SERVICE TRANSACTION OR~~ WITH ANY
 27 OTHER LICENSED DEFERRED PRESENTMENT SERVICE PROVIDER IN THIS STATE,
 28 **AND I HAVE NOT HAD A DEFERRED PRESENTMENT SERVICE TRANSACTION WITH**
 29 **THIS LICENSEE OR ANY OTHER LICENSEE THAT WAS OUTSTANDING AT ANY**

1 **TIME IN THE LAST 30 DAYS."**

2 (3) If a licensee is unable to access the database described
3 in section 22 due to technical difficulties occurring with the
4 database, as determined by the ~~commissioner~~, **director**, the licensee
5 shall utilize the process established ~~in~~ **under** section 22(4) to
6 verify transactions.

7 (4) The ~~commissioner~~ **director** may use the database to
8 administer and enforce this act.

9 (5) If approved by the ~~commissioner~~, **director**, the database
10 provider may impose a database verification fee for the actual
11 costs of entering, accessing, and verifying data in the database
12 described in section 22 to verify that a customer does not have any
13 other open deferred presentment service transactions with the
14 licensee ~~and does not have more than 1 open deferred presentment~~
15 ~~service transaction or~~ with any other licensees, **and was not a**
16 **party to a previous deferred presentment service agreement with the**
17 **licensee or any other licensee that was closed at any time in the**
18 **last 30 days.** A database verification fee is payable to the
19 database provider in a manner prescribed by the ~~commissioner~~.
20 **director.** A licensee may charge a customer all or part of the
21 database verification fee under section 33(1)(b) but may not charge
22 a customer any other fee except as authorized in section 33(1) or
23 35(2).

24 (6) A licensee may rely on the information contained in the
25 database described in section 22 as accurate and is not subject to
26 any administrative penalty or civil liability as a result of
27 relying on inaccurate information contained in the database.

28 (7) Before entering into a deferred presentment service
29 transaction, a licensee shall submit to the database provider the

customer's name and address, the customer's ~~social security~~ **Social Security** number, driver license number, or other state-issued identification number, the amount of the transaction, the customer's check number, the date of the transaction, the maturity date of the transaction, and any other information reasonably required by the ~~commissioner~~ **director** or the database provider, in a format reasonably required by the ~~commissioner~~ **director**.

(8) When a deferred presentment service transaction is closed, the licensee shall designate the transaction as closed and immediately notify the database provider, but in no event after 11:59 p.m. on the day the transaction is closed. The ~~commissioner~~ **director** shall assess an administrative fine of \$100.00 for each day that the licensee fails to notify the database provider that the transaction has been closed. It is a defense to the assessment of an administrative fine that notifying the database provider was not possible due to temporary technical problems with the database or to circumstances beyond the licensee's control.

Sec. 40. A licensee shall not do any of the following:

(a) Enter into a tying arrangement through which the licensee conditions the sale of 1 financial service to a consumer on the agreement by the consumer to purchase 1 or more other financial services from the licensee or an affiliate or subsidiary of the licensee.

(b) Knowingly permit a person to violate an order that has been issued under this act or any other financial licensing act that prohibits that person from being employed by, an agent of, or a control person of the licensee.

(c) **Enter into a deferred presentment service transaction without first determining and documenting that the customer has a**

1 reasonable ability to repay the amount owed. In determining whether
2 the customer has a reasonable ability to repay the deferred
3 presentment service transaction, the licensee must, at a minimum,
4 verify the customer's current and anticipated income and expenses,
5 and the customer's credit history. For purposes of this
6 subdivision, a customer does not have the reasonable ability to
7 repay a deferred presentment service transaction if payments for
8 the proposed deferred presentment service transaction cause the
9 customer to have a debt-to-income ratio higher than 41%. As used in
10 this subdivision:

11 (i) "Debt-to-income ratio" means the ratio of a customer's
12 total monthly debt obligations to the customer's gross monthly
13 income.

14 (ii) "Total monthly debt obligations" consists of the sum of a
15 customer's rent or mortgage-related obligations, any other secured
16 or unsecured debt obligations, and payments for child support and
17 alimony.

18 (d) Make, offer, assist, arrange, guarantee, or collect a
19 deferred presentment service transaction with fees or charges that
20 are greater than permitted under this act.

21 (e) Engage in any device or subterfuge to evade the
22 requirements of this act.

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