

**SUBSTITUTE FOR  
HOUSE BILL NO. 5097**

A bill to amend 2005 PA 244, entitled  
"Deferred presentment service transactions act,"  
by amending the title and sections 2, 11, 13, 15, 17, 19, 22, 31,  
32, 33, 34, 35, 36, 45, 48, and 53 (MCL 487.2122, 487.2131,  
487.2133, 487.2135, 487.2137, 487.2139, 487.2142, 487.2151,  
487.2152, 487.2153, 487.2154, 487.2155, 487.2156, 487.2165,  
487.2168, and 487.2173), section 2 as amended by 2016 PA 140 and  
section 35 as amended by 2016 PA 141, and by adding sections 24,  
31a, and 32a.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

**1** TITLE  
**2** An act to regulate the business of providing deferred  
**3** presentment service transactions; to require the licensing of



1 providers of deferred presentment service transactions; to  
 2 **authorize licensed providers of deferred presentment service**  
 3 **transactions to make certain small loans; to create a fund and**  
 4 **provide for fees;** to prescribe powers and duties of certain state  
 5 agencies and officials; and to prescribe penalties and provide  
 6 remedies.

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

8 (a) "Applicant" means a person that is seeking a license to  
 9 engage in the business of providing deferred presentment service  
 10 transactions **and small loans** under this act.

11 (b) "Check" means a draft that is payable on demand and drawn  
 12 on a bank, savings bank, savings and loan association, or credit  
 13 union. Check includes any negotiable instrument that represents  
 14 evidence of an obligation to pay even if it is described on its  
 15 face by another term.

16 (c) "Closed" ~~in~~ **means 1 of the following, as applicable:**

17 (i) **In connection with a small loan, that the loan is fully**  
 18 **paid or satisfied.**

19 (ii) **In** connection with a deferred presentment service  
 20 transaction, ~~means~~ that 1 of the following has occurred concerning  
 21 each of the customer's checks that is the basis of the deferred  
 22 presentment service transaction:

23 (A) ~~(i)~~—The check is redeemed by the customer by payment to the  
 24 licensee of the face amount of the check in cash or payment from a  
 25 debit card that meets the requirements of section 35(11).

26 (B) ~~(ii)~~—The check is exchanged by the licensee for a cashier's  
 27 check or cash from the customer's financial institution.

28 (C) ~~(iii)~~—The check is deposited by the licensee and the  
 29 licensee has evidence that the person has satisfied the obligation.



1           (D) ~~(iv)~~—The check is collected by the licensee or its agent  
2 through any civil remedy available under the laws of this state.

3           (E) ~~(v)~~—The check is collected by means of a repayment plan  
4 agreed on by the customer and the licensee or as the result of  
5 credit counseling where the licensee is paid the amount agreed upon  
6 by the licensee under that plan.

7           (F) ~~(vi)~~—The check is collected by the licensee under section  
8 35(9) and the licensee has evidence that the person has satisfied  
9 the obligation.

10           (d) "Commissioner" means the director or his or her authorized  
11 representative.

12           (e) "Consumer education and financial services access and  
13 literacy fund" means the consumer education and financial services  
14 access and literacy fund created in section 24.

15           (f) ~~(e)~~—"Customer" means ~~an~~ 1 of the following, as applicable:

16           (i) An individual who requests information about the  
17 availability of, or applies for, a small loan or who enters into a  
18 small loan agreement with a licensee.

19           (ii) An individual who ~~inquires into~~ requests information about  
20 the availability of or applies for a deferred presentment service  
21 transaction or a drawer who enters into a deferred presentment  
22 service transaction.

23           (g) ~~(f)~~—"Database provider" means 1 of the following:

24           (i) A third party provider selected by the director under  
25 section 22 to operate the statewide database described in that  
26 section.

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

29           (h) ~~(g)~~—Subject to subsection (2), "deferred presentment



1 service transaction" means a transaction between a licensee and a  
 2 customer under which the licensee agrees to do all of the  
 3 following:

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

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

8 (i) ~~(h)~~—"Department" means the department of insurance and  
 9 financial services.

10 (j) ~~(i)~~—"Director" means the director of the department or his  
 11 or her authorized representative.

12 (k) ~~(j)~~—"Drawee" means a bank, savings bank, savings and loan  
 13 association, credit union, or other person on which a check is  
 14 drawn.

15 (l) ~~(k)~~—"Drawer" means a customer who enters into a deferred  
 16 presentment service transaction with a licensee.

17 (m) ~~(l)~~—"Executive officer" means an officer or director of a  
 18 licensee or any other individual who has the authority to  
 19 participate in the direction, directly or indirectly, through 1 or  
 20 more persons, or the management or policies of a licensee.

21 (n) ~~(m)~~—"Financial licensing act" means this act or any of the  
 22 financial licensing acts as defined in section 2 of the consumer  
 23 financial services act, 1988 PA 161, MCL 487.2052.

24 (o) ~~(n)~~—"Licensee" means a person that is licensed to engage  
 25 in the business of providing deferred presentment service  
 26 transactions **and authorized to make small loans** under this act.

27 (p) ~~(o)~~—"Maturity date" means ~~the~~ **1 of the following, as**  
 28 **applicable:**

29 (i) **The date a small loan, or the last installment of the small**



1 loan, is due.

2 (ii) The date on which a drawer's check is to be redeemed,  
3 presented for payment, or entered into the check-clearing process  
4 in a deferred presentment service transaction.

5 (q) ~~(p)~~ "Office" or "office of financial and insurance  
6 services" means the department.

7 (r) ~~(q)~~ "Person" means an individual, partnership,  
8 association, corporation, limited liability company, or other legal  
9 entity except a governmental entity.

10 (s) ~~(r)~~ "Redeem" means that the customer pays to the licensee  
11 an amount equal to the face amount of a check included in a  
12 deferred presentment service transaction, on or before the maturity  
13 date or after the check is deposited and returned unpaid by the  
14 drawee, and the licensee returns the check to the customer.

15 (t) With respect to an existing small loan, "renewal" means  
16 renewing, repaying, refinancing, or consolidating the existing  
17 small loan with the proceeds of another small loan or a deferred  
18 presentment service transaction. The term renewal does not include  
19 the conversion of a deferred presentment service transaction to a  
20 small loan.

21 (u) Subject to subsection (3), "small loan" means a loan made  
22 by a licensee that meets all of the following:

23 (i) The loan is made to 1 or more individuals for personal,  
24 family, or household use.

25 (ii) The principal amount of the loan does not exceed  
26 \$2,500.00.

27 (iii) The maturity date for the loan is not fewer than 90 days  
28 or greater than 365 days after the date of the transaction.

29 (iv) The loan is unsecured and payable in substantially equal



1 **installments.**

2 (2) Deferred presentment service transaction does not include  
 3 a delay in presentment of a loan repayment check, at the request of  
 4 the ~~borrower,~~ **customer**, by a person that is licensed or registered  
 5 under the consumer financial services act, 1988 PA 161, MCL  
 6 487.2051 to 487.2072, the regulatory loan act, 1939 PA 21, MCL  
 7 493.1 to 493.24, the secondary mortgage loan act, 1981 PA 125, MCL  
 8 493.51 to 493.81, the motor vehicle sales finance act, 1950 (Ex  
 9 Sess) PA 27, MCL 492.101 to 492.141, 1984 PA 379, MCL 493.101 to  
 10 493.114, the money transmission services act, 2006 PA 250, MCL  
 11 487.1001 to 487.1047, or the mortgage brokers, lenders, and  
 12 servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684.

13 (3) **Small loan does not include a loan or other extension of**  
 14 **credit that is made by a person that is licensed or registered**  
 15 **under the consumer financial services act, 1988 PA 161, MCL**  
 16 **487.2051 to 487.2072, the regulatory loan act, 1939 PA 21, MCL**  
 17 **493.1 to 493.24, the secondary mortgage loan act, 1981 PA 125, MCL**  
 18 **493.51 to 493.81, the motor vehicle sales finance act, 1950 (Ex**  
 19 **Sess) PA 27, MCL 492.101 to 492.141, 1984 PA 379, MCL 493.101 to**  
 20 **493.114, the money transmission services act, 2006 PA 250, MCL**  
 21 **487.1001 to 487.1047, or the mortgage brokers, lenders, and**  
 22 **servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684, or**  
 23 **by an entity described in section 11(2).**

24 Sec. 11. (1) Subject to subsection (2), a person shall not  
 25 engage in the business of providing deferred presentment service  
 26 transactions after June 1, 2006 without a license under this act. A  
 27 separate license is required for each location from which the  
 28 business of providing deferred presentment service transactions **or**  
 29 **small loans** is conducted.



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

5 (3) By January 1, 2006, the commissioner by administrative  
6 bulletin, order, or rule shall establish an application process and  
7 an application timeline for license applications under this act.

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

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

13 (b) The commissioner acts on the person's complete  
14 application.

15 (5) **Within 90 days after the effective date of the amendatory**  
16 **act that added section 31a, the commissioner by administrative**  
17 **bulletin, order, or rule shall make any revisions to the**  
18 **application process and timeline described in subsection (3) that**  
19 **the commissioner determines are necessary to reflect the authority**  
20 **of licensees to engage in the business of providing small loans.**

21 Sec. 13. (1) An applicant **for a license under this act** shall  
22 submit an application for a license to the commissioner. Each  
23 application for a license ~~shall~~**must** be in writing and under oath,  
24 in a form prescribed by the commissioner, and ~~shall~~**must** include  
25 all of the following information:

26 (a) The name, street address, and telephone number of the  
27 business location within this state from which the applicant will  
28 offer deferred presentment service transactions **or small loans**, if  
29 available.



1 (b) The legal name, residence, street address, and telephone  
2 number and business address of the applicant and, if the applicant  
3 is not an individual, of each executive officer and each person ~~who~~  
4 **that** directly or indirectly owns or controls 10% or more of the  
5 ownership interest in the applicant.

6 (c) If the applicant will not operate a physical business  
7 location in this state, or if in addition to the location described  
8 in subdivision (a) the applicant will make deferred presentment  
9 service transactions **or small loans** by other means, a detailed  
10 description of the manner in which deferred presentment service  
11 transactions **or small loans** will be offered to customers in this  
12 state.

13 (d) Any other information the commissioner considers necessary  
14 under this act.

15 (2) An applicant shall include an application fee in an amount  
16 determined by the commissioner with the application described in  
17 subsection (1). **In addition to the application fee required under**  
18 **this section, an applicant shall include an additional literacy fee**  
19 **in an amount determined by the commissioner, but not to exceed**  
20 **\$200.00, with the application described in subsection (1). The**  
21 **literacy fee collected under this subsection shall be deposited**  
22 **into the consumer education and financial services access and**  
23 **literacy fund.**

24 Sec. 15. (1) After the commissioner receives a completed  
25 license application, the commissioner shall investigate to  
26 determine whether the requirements of this act are satisfied. If  
27 the commissioner finds that the requirements of this act are  
28 satisfied, the commissioner shall issue to the applicant a license  
29 to engage in deferred presentment service transactions **and make**





1 **small loans.**

2 (2) A licensee shall post a copy of its license in a  
3 conspicuous location at the place of business of the licensee.

4 Sec. 17. (1) A license issued under this article is not  
5 transferable or assignable.

6 (2) The prior written approval of the commissioner is required  
7 for the continued operation of a licensee if there is a change in  
8 control of that licensee. The commissioner may require information  
9 considered necessary to determine whether a new application is  
10 required. The person that requests the approval shall pay the cost  
11 incurred by the commissioner in investigating the change of control  
12 request.

13 (3) A licensee shall do all of the following:

14 (a) At least 15 days before providing deferred presentment  
15 service transactions **or small loans** at any new location or under  
16 section 13(1)(c), provide written notice to the commissioner on a  
17 form prescribed by the commissioner of the name, street address,  
18 and telephone number of the new location or the detailed  
19 description required in section 13(1)(c).

20 (b) At least 15 days before discontinuing deferred presentment  
21 service transactions **or small loans** at any existing location or  
22 under section 13(1)(c), provide written notice to the commissioner  
23 on a form prescribed by the commissioner of the name, street  
24 address, and telephone number of the discontinued location or the  
25 detailed description of the services required in section 13(1)(c).

26 (4) A licensee shall comply with any request for information  
27 or documentation made by the commissioner under this act and shall  
28 comply with any reasonable written time deadlines imposed by the  
29 commissioner on that request.



1 (5) As used in this section, "control" means 1 of the  
2 following:

3 (a) For a corporation, direct or indirect ownership of, or the  
4 right to control, 10% or more of the voting shares of the  
5 corporation, or the ability of a person to elect a majority of the  
6 directors or otherwise effect a change in policy.

7 (b) For any entity other than a corporation, the ability to  
8 change the principals of the organization, whether active or  
9 passive.

10 Sec. 19. (1) A license issued under this article shall expire  
11 on September 30 of each year unless earlier suspended, surrendered,  
12 or revoked under this act. A licensee may renew a license for a 12-  
13 month period by submitting a complete application that shows  
14 continued compliance with this act, in a form prescribed by the  
15 commissioner, and paying the license renewal fee to the  
16 commissioner. The licensee shall submit a renewal application under  
17 this subsection on or before August 1 and the commissioner shall  
18 proceed in the manner described in sections 15(1) and 16. **In**  
19 **addition to the license renewal fee required under this section, a**  
20 **licensee shall include an additional literacy fee in an amount**  
21 **determined by the commissioner, but not to exceed \$200.00, with the**  
22 **renewal application. The literacy fee collected under this**  
23 **subsection shall be deposited into the consumer education and**  
24 **financial services access and literacy fund.**

25 (2) Before October 1, 2006, the commissioner may issue a  
26 license to an applicant under this article that is for a period  
27 longer than 12 months and that expires on September 30, 2007.

28 Sec. 22. (1) On or before December 31, 2006, the commissioner  
29 shall develop, implement, and maintain a statewide, common database



1 that has real-time access through an internet connection, is  
2 accessible at all time to licensees, and to the commissioner for  
3 purposes of subsections (10) and (11), and meets the requirements  
4 of this section. Before the commissioner determines that the  
5 database is fully operational for the purposes of this act, for at  
6 least 30 days the database provider shall operate a pilot program  
7 of the database to test all of the processes of the database. The  
8 database provider shall make the pilot program available to all  
9 applicants and licensees. During the 30-day period that begins on  
10 the date the commissioner determines that the database is fully  
11 operational, the commissioner shall not approve the imposition of  
12 any database verification fees under section 34(5). **Within 90 days**  
13 **after the effective date of the amendatory act that added section**  
14 **31a, the commissioner shall implement any changes to the database**  
15 **that the commissioner determines are necessary to include small**  
16 **loans in the database for the purposes of this act.**

17 (2) The commissioner may operate the database described in  
18 subsection (1) or may select and contract with a single third party  
19 provider to operate the database. If the commissioner contracts  
20 with a third party provider for the operation of the database, all  
21 of the following apply:

22 (a) The commissioner shall ensure that the third party  
23 provider selected as the database provider operates the database  
24 ~~pursuant to~~ **in accordance with** the provisions of this act.

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

28 (c) In selecting a third party provider to act as the database  
29 provider, the commissioner shall give strong consideration to the



1 third party provider's ability to prevent fraud, abuse, and other  
2 unlawful activity associated with deferred presentment service  
3 transactions **or small loans** and provide additional tools for the  
4 administration and enforcement of this act.

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

8 (e) If the third party provider violates this section, the  
9 commissioner shall terminate the contract and the third party  
10 provider is barred from becoming a party to any other state  
11 contracts.

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

16 (3) The database described in subsection (1) shall allow a  
17 licensee accessing the database to do all of the following:

18 (a) Verify whether a customer has any open deferred  
19 presentment service transactions **or small loans** with any licensee  
20 that have not been closed.

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

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



1 requires by rule.

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

6 (4) While operating the database, the database provider shall  
7 do all of the following:

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

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

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

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

18 **(e) Provide to a licensee access to the data reported by that**  
19 **licensee.**

20 **(f) ~~(e)~~**Meet the requirements of this act.

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

27 (6) The database provider shall automatically designate a  
28 deferred presentment service transaction **or small loan** as closed in  
29 the database 5 days after the transaction **or loan** maturity date



1 unless a licensee reports to the database provider before that time  
2 that the transaction **or loan** remains open because of the customer's  
3 failure to make payment, ~~;~~that, **in connection with a deferred**  
4 **presentment service transaction**, the transaction is open because  
5 the customer's check or an electronic redeposit is in the process  
6 of clearing the banking system, ~~;~~or that the transaction remains  
7 open because the customer's check is being returned to the licensee  
8 for insufficient funds, a closed account, or a stop payment order,  
9 or any other factors determined by the commissioner. If a licensee  
10 reports the status of a **deferred presentment service** transaction **or**  
11 **small loan** as open in a timely manner, the transaction **or loan**  
12 remains an open transaction **or loan** until it is closed under  
13 section 34 and the database provider is notified that the  
14 transaction **or loan** is closed under that section.

15 (7) If a licensee stops providing deferred presentment service  
16 transactions **or small loans**, the database provider shall designate  
17 all open transactions with that licensee as closed in the database  
18 60 days after the date the licensee stops offering deferred  
19 presentment service transactions **or small loans**, unless the  
20 licensee reports to the database provider before the expiration of  
21 the 60-day period which of its transactions **or loans** remain open  
22 and the specific reason each transaction **or loan** remains open. The  
23 licensee shall also provide to the commissioner a reasonably  
24 acceptable plan that outlines how the licensee will continue to  
25 update the database after it stops offering deferred presentment  
26 service transactions **or small loans**. The commissioner shall  
27 promptly approve or disapprove the plan and immediately notify the  
28 licensee of his or her decision. If the plan is disapproved, the  
29 licensee may submit a new plan or may submit a modified plan for



1 the licensee to follow. If at any time the commissioner reasonably  
 2 determines that a licensee that has stopped offering deferred  
 3 presentment service transactions **or small loans** is not updating the  
 4 database in accordance with its approved plan, the commissioner  
 5 shall immediately close or instruct the database provider to  
 6 immediately close all remaining open transactions **or loans** of that  
 7 licensee.

8 (8) The response to an inquiry to the database provider by a  
 9 licensee shall only state that a person is eligible or ineligible  
 10 for a new deferred presentment service transaction **or small loan**  
 11 and describe the reason for that determination. Only the person  
 12 seeking the **deferred presentment service** transaction **or small loan**  
 13 may make a direct inquiry to the database provider to request a  
 14 more detailed explanation of a particular transaction **or loan** that  
 15 was the basis for the ineligibility determination. Any information  
 16 regarding any person's ~~transactional~~ **deferred presentment service**  
 17 **transaction or small loan** history is confidential, is not subject  
 18 to public inspection, is not a public record subject to the  
 19 disclosure requirements of the freedom of information act, 1976 PA  
 20 442, MCL 15.231 to 15.246, is not subject to discovery, subpoena,  
 21 or other compulsory process, except in an action under section 53,  
 22 and shall not be disclosed to any person other than the  
 23 commissioner.

24 (9) The database provider may charge licensees a verification  
 25 fee for access to the database, in amounts approved by the  
 26 commissioner under section 34(5).

27 (10) The commissioner may access the database provided under  
 28 subsection (1) only for purposes of an investigation of,  
 29 examination of, or enforcement action concerning, an individual



1 database provider, licensee, customer, or other person. The  
 2 commissioner and any employees of the commissioner, the office, or  
 3 this state shall not obtain or access a customer's ~~social security~~  
 4 **Social Security** number, driver license number, or other state-  
 5 issued identification number in the database except as provided in  
 6 this subsection. An individual who violates this subsection is  
 7 guilty of a misdemeanor punishable by imprisonment for not more  
 8 than 93 days or a fine of not more than \$1,000.00, or both, and if  
 9 convicted, an individual who violates this subsection shall be  
 10 dismissed from office or discharged from employment.

11 (11) The commissioner shall investigate violations of and  
 12 enforce this section. The commissioner shall not delegate its  
 13 responsibilities under this subsection to any third party provider.

14 (12) The commissioner shall do all of the following:

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

17 (b) Require by rule that data in the database concerning a  
 18 customer **deferred presentment service** transaction ~~are-or small loan~~  
 19 **be** archived within 365 days after the customer transaction **or loan**  
 20 is closed unless needed for a pending enforcement action.

21 (c) Require by rule that any identifying customer information  
 22 ~~is-be~~ deleted from the database when data ~~are-is~~ archived.

23 (d) Require by rule that data in the database concerning a  
 24 customer **deferred presentment service** transaction ~~are-or small loan~~  
 25 **be** deleted from the database 3 years after the customer transaction  
 26 **or loan** is closed or any enforcement action pending 3 years after  
 27 the customer transaction **or loan** is closed is completed, whichever  
 28 is later.

29 (13) The commissioner may maintain access to data archived





1 under subsection (12) for future legislative or policy review.

2       **Sec. 24. (1) The consumer education and financial services**  
3 **access and literacy fund is created within the state treasury. The**  
4 **department shall be the administrator of the fund for auditing**  
5 **purposes.**

6       (2) The state treasurer may receive money or other assets from  
7 any source for deposit into the fund. The state treasurer shall  
8 direct the investment of the fund. The fund shall consist of the  
9 money credited to the fund pursuant to fees collected under  
10 sections 13 and 19, any interest and earnings accruing from the  
11 saving and investment of that money, and money from any other  
12 source.

13       (3) Money in the fund at the close of the year shall remain in  
14 the fund and shall not lapse to the general fund.

15       (4) The department shall expend money from the fund, upon  
16 appropriation, only for 1 or more of the following purposes:

17       (a) Promote the education of consumers about access to  
18 financial services, financial counseling, and assistance, the  
19 different financial products available, and the cost of credit  
20 products.

21       (b) Develop, deliver, and promote financial literacy and  
22 education programs in schools and communities.

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



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

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

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

12           5. We ~~will~~**may** pay the proceeds of a **deferred presentment**  
13 **service** transaction to you by check, by money order, ~~or~~**in cash, as**  
14 ~~you request.~~**or by any other means mutually acceptable and we are**  
15 **not permitted to subject you to any additional fees.**

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

21           7. State law prohibits us from renewing ~~an~~**a deferred**  
22 **presentment service** agreement for a fee. You have to pay any other  
23 **deferred presentment service agreement or small loan** agreement in  
24 full before obtaining additional money from us.

25           8. State law prohibits us from using any criminal process to  
26 collect on ~~an~~**a deferred presentment service** agreement.

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



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

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

19 (2) A licensee shall post prominently in an area designed to  
 20 be seen by the customer before he or she enters into a deferred  
 21 presentment service transaction a schedule of all fees and charges  
 22 imposed for deferred presentment service transactions in at least  
 23 36-point type.

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

28 "1. State law prohibits us from entering into a small loan  
 29 agreement with you if you already have a deferred presentment



1 service agreement or small loan agreement in effect with us or have  
2 more than one deferred presentment service agreement or a small  
3 loan agreement in effect with any other person who provides this  
4 service.

5 2. If you enter into a small loan agreement with us, we must  
6 immediately give you a copy of your signed agreement.

7 3. We may pay the proceeds of a small loan to you by check, by  
8 money order, in cash, or by any other means mutually acceptable and  
9 we are not permitted to subject you to any additional fees.

10 4. State law entitles you to the right to cancel this  
11 agreement and receive a refund of the fee. To do this, you must  
12 notify us and return the money you receive within 3 business days  
13 beginning from the day after you enter into a small loan agreement  
14 with us.

15 5. State law prohibits us from using any criminal process to  
16 collect on a small loan agreement.

17 6. State law entitles you to information regarding filing a  
18 complaint against us if you believe that we have violated the law.  
19 If you feel we are acting unlawfully, you should call the  
20 Department of Insurance and Financial Services toll-free at 1-877-  
21 999-6442."

22 (2) A licensee shall post prominently in an area designed to  
23 be seen by the customer before he or she enters into a small loan  
24 agreement a schedule of all fees and charges imposed for small  
25 loans in at least 36-point type.

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

29 (2) A licensee shall include all of the following in the



1 written deferred presentment service agreement:

2 (a) The name of the customer.

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

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

8 (d) The date of the transaction.

9 (e) The transaction number assigned by the database provider,  
10 if any.

11 (f) The amount of the check presented to the licensee by the  
12 customer.

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

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

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

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

22 (k) The maturity date.

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

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

28 (n) The following notice in at least 12-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 this transaction  
6 with you if you already have a deferred presentment service  
7 agreement **or small loan agreement** in effect with us or have more  
8 than one deferred presentment service agreement **or a small loan**  
9 **agreement** in effect with any other person who provides this  
10 service.

11 4. We must immediately give you a copy of your signed  
12 agreement.

13 5. We ~~will~~**may** pay the proceeds of this transaction to you by  
14 check, by money order, ~~or~~ in cash, ~~as you request.~~**or by any other**  
15 **means mutually acceptable and we are not permitted to subject you**  
16 **to any additional fees.**

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

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

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

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



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

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

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

22       (a) Provides that the licensee agrees to pay any costs of the  
 23 arbitration.

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

28       (c) Provides that an arbitration proceeding shall be conducted  
 29 by a neutral arbitrator who was not and is not currently being paid



1 by the licensee and who has no financial interest in a party to the  
2 arbitration.

3 (d) Requires that the arbitrator shall provide the drawer with  
4 all the substantive rights that the drawer would have if the  
5 drawer's claim were asserted in a court proceeding and shall not  
6 limit any other claim or defense the drawer has concerning the  
7 claim.

8 **Sec. 32a. (1) A licensee shall document a small loan by**  
9 **entering into a written small loan agreement signed by both the**  
10 **customer and the licensee.**

11 (2) A licensee shall include all of the following in a written  
12 small loan agreement:

13 (a) The name of the customer.

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

16 (c) The signature and printed or typed name of the individual  
17 who enters into the small loan agreement on behalf of the licensee.

18 (d) The date of the transaction.

19 (e) The amount of the small loan.

20 (f) An itemization of the fees to be paid by the customer.

21 (g) A calculation of the cost of the fees and charges to the  
22 customer, expressed as a percentage rate per year.

23 (h) A clear description of the customer's payment obligation  
24 under the small loan agreement.

25 (i) Except as otherwise provided under this subdivision, a  
26 repayment schedule with installment payments of substantially equal  
27 amounts of principal and service fees amortizing over the term of  
28 the small loan such that the loan is repaid in full by the maturity  
29 date. If the licensee and customer mutually agree, the repayment





1 schedule may provide for different payment amounts over the term of  
2 the small loan. However, the repayment schedule shall not include a  
3 payment due at the maturity date that is substantially larger than  
4 any previously scheduled installment payment.

5 (j) A provision that allows the customer to prepay in full the  
6 unpaid balance of the small loan at any time without any additional  
7 interest, fee, or penalty.

8 (k) The maturity date.

9 (l) A description of the process a customer may use to file a  
10 complaint against the licensee.

11 (m) The following notice in at least 12-point type:

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

18 2. We must immediately give you a copy of your signed loan  
19 agreement.

20 3. We may pay the proceeds of a small loan to you by check, by  
21 money order, in cash, or by any other means mutually acceptable and  
22 we are not permitted to subject you to any additional fees.

23 4. State law entitles you to the right to cancel this  
24 agreement and receive a refund of the fee. To do this, you must  
25 notify us and return the money you receive today within 3 business  
26 days beginning from tomorrow.

27 5. State law prohibits us from using any criminal process to  
28 collect on this agreement.

29 6. State law entitles you to information regarding filing a



1 complaint against us if you believe that we have violated the law.  
 2 If you feel we are acting unlawfully, you should call the  
 3 Department of Insurance and Financial Services toll-free at 1-877-  
 4 999-6442."

5 (3) A licensee may include an arbitration provision in a small  
 6 loan agreement if the arbitration provision meets all of the  
 7 following:

8 (a) Provides that the licensee agree to pay any costs of the  
 9 arbitration.

10 (b) Requires that the arbitration proceeding be held at a  
 11 location within 10 miles of the customer's address contained in the  
 12 small loan agreement unless the customer consents to another  
 13 location after an arbitrable dispute occurs.

14 (c) Requires that a neutral arbitrator who was not and is not  
 15 currently being paid by the licensee and who has no financial  
 16 interest in a party to the arbitration conduct the arbitration  
 17 proceeding.

18 (d) Requires that the arbitrator provide the customer with all  
 19 the substantive rights that the customer would have if the  
 20 customer's claim were asserted in a court proceeding and does not  
 21 limit any other claim or defense the customer has concerning the  
 22 claim.

23 Sec. 33. (1) ~~A~~ **Subject to subsection (3)**, a licensee may enter  
 24 into ~~a~~ **single** deferred presentment service transaction with a  
 25 customer for any amount up to \$600.00. **All of the following apply**  
 26 **to a deferred presentment service transaction:**

27 (a) A licensee may charge the customer a service fee for each  
 28 deferred presentment service transaction. A service fee is earned  
 29 by the licensee on the date of the transaction and is not interest.



1           **(b)** A licensee may charge both of the following as part of the  
2 service fee, as applicable:

3           **(i)** ~~(a)~~—An amount that does not exceed the aggregate of the  
4 following, as applicable:

5           **(A)** ~~(i)~~—Fifteen percent of the first \$100.00 of the deferred  
6 presentment service transaction.

7           **(B)** ~~(ii)~~—Fourteen percent of the second \$100.00 of the deferred  
8 presentment service transaction.

9           **(C)** ~~(iii)~~—Thirteen percent of the third \$100.00 of the deferred  
10 presentment service transaction.

11           **(D)** ~~(iv)~~—Twelve percent of the fourth \$100.00 of the deferred  
12 presentment service transaction.

13           **(E)** ~~(v)~~—Eleven percent of the fifth \$100.00 of the deferred  
14 presentment service transaction.

15           **(F)** ~~(vi)~~—Eleven percent of the sixth \$100.00 of the deferred  
16 presentment service transaction.

17           **(ii)** ~~(b)~~—The amount of any database verification fee allowed  
18 under section 34(5).

19           **(2)** **Subject to subsection (3), a licensee may enter into a**  
20 **single small loan agreement with a customer for any amount up to**  
21 **\$2,500.00. All of the following apply to a small loan:**

22           **(a)** **A licensee may charge a customer a service fee for each**  
23 **small loan. A licensee may charge both of the following as part of**  
24 **the service fee, as applicable:**

25           **(i)** **A fee that does not exceed 11% of the amount of the small**  
26 **loan and is not charged more frequently than monthly.**

27           **(ii)** **The amount of any database verification fee allowed under**  
28 **section 34(5).**



1 (b) A licensee shall not charge a prepayment penalty to the  
2 customer for early payment.

3 (c) A licensee shall report to a credit reporting agency or  
4 agencies the terms of the small loan and the customer's performance  
5 pursuant to those terms.

6 (d) When underwriting, making, or negotiating a small loan, in  
7 determining the amount and duration of the loan, a licensee shall  
8 take into consideration the customer's reasonable financial ability  
9 to repay the loan in the time and manner provided in the  
10 prospective small loan agreement including, but not limited to, the  
11 customer's credit and borrowing history, gross income, major  
12 financial obligations, and estimated basic living expenses. For  
13 purposes of this subdivision, estimated basic living expenses  
14 include, but are not limited to, food, utilities, regular medical  
15 costs, and other costs associated with the customer's health,  
16 welfare, ability to produce income, and the health and welfare of  
17 the customer's household who are financially dependent on the  
18 customer. A licensee may rely on the customer's representation of  
19 estimated basic living expenses when determining a customer's  
20 ability to repay.

21 (e) A licensee shall not charge interest under the agreement.

22 (3) ~~(2)~~—A licensee shall not enter into a deferred presentment  
23 service transaction **or small loan agreement** with a customer if the  
24 customer has an open deferred presentment service transaction **or**  
25 **small loan agreement** with the licensee or has more than 1 open  
26 deferred presentment service transaction **or a small loan agreement**  
27 with any other licensee, and shall verify whether the customer has  
28 an open deferred presentment service transaction **or small loan**  
29 **agreement** with the licensee or has more than 1 open deferred



1 presentment service transaction **or a small loan agreement** with any  
 2 other licensee by complying with section 34. **A licensee shall not**  
 3 **enter into a small loan agreement with a customer unless the**  
 4 **licensee makes a determination after the considerations under**  
 5 **subsection (2) (d) that the customer has the reasonable financial**  
 6 **ability to repay the small loan. This subsection does not prohibit**  
 7 **the use of the proceeds of a small loan to pay in full an existing**  
 8 **deferred presentment service transaction with the licensee.**

9 (4) A licensee shall comply with the requirements of 12 CFR  
 10 part 205 if the licensee accepts an authorization to make  
 11 electronic payments from the customer's account in connection with  
 12 a deferred presentment service transaction or small loan agreement.  
 13 A licensee shall comply with the requirements of 12 CFR part 1041  
 14 applicable to covered loans in making a small loan or entering into  
 15 a small loan agreement.

16 (5) ~~(3)~~—At the time of entering into a deferred presentment  
 17 service transaction, a licensee shall do all of the following:

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

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

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

26 b. At any time before signing a new deferred presentment  
 27 service agreement **or small loan agreement** with us, notify us in  
 28 writing of the violation. Your written notice must state the  
 29 violation and provide supporting documents or other evidence of the



1 violation.

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

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

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

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

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

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



1           (6) ~~(4)~~—At the time of entering into a deferred presentment  
2 service transaction, a licensee shall not do any of the following:

3           (a) Charge interest under the agreement.

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

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

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

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

12           (7) ~~(5)~~—A licensee shall not refuse to provide a deferred  
13 presentment service transaction to a customer solely because the  
14 customer has exercised his or her rights under this act.

15           (8) ~~(6)~~—Each licensee shall post a sign, printed in bold  
16 faced, 36-point type, in a conspicuous location at each customer  
17 service window, station, or desk at each place of business, that  
18 states the following:

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

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

27           (a) If the commissioner has not implemented a database under  
28 section 22 or the database described in **that** section ~~22~~—is not  
29 fully operational, as determined by the commissioner, verifying



1 that the customer does not have an open deferred presentment  
 2 service transaction **or small loan** with the licensee. The licensee  
 3 shall maintain a database of all of the licensee's **deferred**  
 4 **presentment service** transactions **and small loans** at all of its  
 5 locations and search that database to meet its obligation under  
 6 this subdivision.

7 (b) If the commissioner has implemented a database under  
 8 section 22 and the database described in that section is fully  
 9 operational, as determined by the commissioner, accessing the  
 10 database and verifying that the customer does not have an  
 11 outstanding deferred presentment service transaction **or small loan**  
 12 with the licensee and does not have more than 1 open deferred  
 13 presentment service transaction **or a small loan** that has not been  
 14 fully repaid with any other licensee.

15 (2) If the commissioner has not implemented a database under  
 16 section 22, ~~the~~ database described in that section is not fully  
 17 operational, as determined by the commissioner, ~~or~~ the licensee  
 18 is unable to access the database and the alternative mechanism for  
 19 verification described in subsection (3) is also unavailable, as  
 20 determined by the commissioner, a licensee may rely upon the  
 21 written verification of the **customer**. ~~borrower in a statement~~  
 22 ~~provided in substantially the following form in at least 12 point~~  
 23 ~~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 WITH ANY OTHER~~  
 27 ~~LICENSED DEFERRED PRESENTMENT SERVICE PROVIDER IN THIS STATE.".~~

28 (3) If a licensee is unable to access the database described  
 29 in section 22 due to technical difficulties occurring with the





1 database, as determined by the commissioner, the licensee shall  
 2 utilize the process established in section 22(4) to verify **deferred**  
 3 **presentment service** transactions **and small loans**.

4 (4) The commissioner may use the database to administer and  
 5 enforce this act.

6 (5) If approved by the commissioner, the database provider may  
 7 impose a database verification fee for the actual costs of  
 8 entering, accessing, and verifying data in the database described  
 9 in section 22 to verify that a customer does not have any other  
 10 open deferred presentment service transactions **or small loans** with  
 11 the licensee and does not have more than 1 open deferred  
 12 presentment service transaction **or a small loan** with any other  
 13 licensees. A database verification fee is payable to the database  
 14 provider in a manner prescribed by the commissioner. A licensee may  
 15 charge a customer all or part of the database verification fee  
 16 under section ~~33(1)(b)~~ **33(1)(b)(ii) or (2)(a)(ii)** but may not charge  
 17 a customer any other fee except as authorized in section 33(1) **or**  
 18 **(2)** or 35(2).

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

23 (7) Before entering into a deferred presentment service  
 24 transaction **or small loan**, a licensee shall submit to the database  
 25 provider the customer's name and address, the customer's ~~social~~  
 26 ~~security~~ **Social Security** number, driver license number, or other  
 27 state-issued identification number, the amount of the transaction  
 28 **or loan**, the customer's check number **if the customer is entering**  
 29 **into a deferred presentment service transaction**, the date of the



1 transaction **or loan**, the maturity date of the transaction **or loan**,  
2 and any other information reasonably required by the commissioner  
3 or the database provider, in a format reasonably required by the  
4 commissioner.

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

16 Sec. 35. (1) **The following apply to the renewal of deferred**  
17 **presentment service agreements and small loan agreements:**

18 (a) A licensee shall not renew a deferred presentment service  
19 agreement. A licensee may extend a deferred presentment service  
20 agreement only if the licensee does not charge a fee in connection  
21 with the extended transaction. A licensee ~~who~~**that** extends an  
22 agreement under this subsection shall not create a balance owed  
23 above the amount owed on the original agreement.

24 (b) **A licensee shall not renew a small loan agreement unless**  
25 **both of the following conditions are met:**

26 (i) **The customer has made all payments as scheduled.**

27 (ii) **The customer has made at least 30% of all scheduled**  
28 **payments or retired at least 50% of the principal.**

29 (c) **A licensee shall not charge a rate for the renewal of a**



1 small loan agreement that is higher than the rate charged for the  
2 original small loan.

3 (d) A licensee and customer may agree to convert a deferred  
4 presentment service transaction to a small loan, subject to the  
5 limits on outstanding small loans provided in this act.

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

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

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

19 (c) The drawer shall pay a fee to the licensee for  
20 administration of the repayment plan. The initial amount of the fee  
21 is \$15.00. Beginning March 1, 2011, and by March 1 of every fifth  
22 year after March 1, 2011, the licensee may adjust the fee by an  
23 amount determined by the director to reflect the cumulative  
24 percentage change in the Detroit ~~consumer price index~~ **Consumer**  
25 **Price Index** over the preceding 5 calendar years. As used in this  
26 subsection, ~~subdivision~~, "Detroit ~~consumer price index~~" **Consumer**  
27 **Price Index**" means the most comprehensive index of consumer prices  
28 available for the Detroit area from the Bureau of Labor Statistics  
29 of the United States Department of Labor.



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

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

17 "If you are unable to pay your deferred presentment service  
18 transaction and have entered into 8 deferred presentment  
19 transactions in any 12-month period, state law entitles you to  
20 request a repayment of that transaction in installments. We are  
21 required to advise you of this option at the time it is available.  
22 If you elect this option, you must notify us, either orally or in  
23 writing, within 30 days after the maturity date of the eighth  
24 deferred presentment transaction in the 12-month period. The notice  
25 must be provided to us at our place of business. You may be charged  
26 an additional fee when the transaction is rescheduled in  
27 installments. You will be ineligible to enter into a deferred  
28 presentment service transaction with any licensee during the term  
29 of the repayment plan. If we refuse to provide this option under



1 the stipulations above, you should contact the ~~department of~~  
2 ~~insurance and financial services~~ **Department of Insurance and**  
3 **Financial Services** toll-free at 1-877-999-6442.".

4 (4) During the term of a repayment plan by a drawer under this  
5 section, the database provider shall notify the licensee at the  
6 time the licensee submits the required customer information to the  
7 database for that ~~customer that the customer~~ **drawer that he or she**  
8 is presently in a repayment plan under this section with 1 or more  
9 other licensees and the licensee shall not enter into a deferred  
10 presentment transaction with that individual.

11 (5) ~~A~~ **In a deferred presentment service transaction, a**  
12 licensee shall not present a check for payment before the maturity  
13 date or during the term of the repayment plan. In addition to the  
14 remedies and penalties under this act, a licensee that presents a  
15 check for payment before the maturity date or during the term of  
16 the repayment plan is liable for all expenses and damages caused to  
17 the drawer and the drawee as a result of the violation. If a drawer  
18 has not requested a repayment plan on or before the maturity date,  
19 the licensee may redeem, present for payment, or enter the check  
20 into the check-clearing process under the terms of the original  
21 deferred presentment service transaction agreement.

22 (6) A drawer satisfies his or her obligation under a deferred  
23 presentment service agreement when the check the licensee is  
24 holding is paid by the drawee or is redeemed by the drawer by  
25 paying to the licensee an amount equal to the full amount of the  
26 check.

27 (7) Unless the drawer has entered into a written repayment  
28 plan under subsection (2), a licensee shall deposit a check held in  
29 connection with a deferred presentment service transaction on the



1 maturity date if the check is not redeemed in the manner described  
 2 in section ~~2(1)(c)(i)~~, **2(1)(c)(ii)(A)**, or exchanged in the manner  
 3 described in ~~section 2(1)(c)(ii)~~, **2(1)(c)(ii)(B)**, on or before the  
 4 maturity date.

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

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

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

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

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

20 (10) If the payment to satisfy an outstanding deferred  
 21 presentment transaction obligation is made in person, the licensee  
 22 shall immediately return the check held in connection with the  
 23 deferred presentment service transaction to the drawer. If the  
 24 payment to satisfy the obligation is not made in person, the  
 25 licensee shall return the check to the drawer by mailing it to the  
 26 address listed on the deferred presentment transaction service  
 27 agreement within 1 business day after the licensee obtains evidence  
 28 that the drawer has satisfied the obligation.

29 (11) ~~A~~ **In a deferred presentment service transaction, a**



1 licensee shall only accept a payment by debit card to redeem a  
 2 check the licensee is holding if the drawer certifies to the  
 3 licensee that the debit card draws funds from the same account on  
 4 which the check is drawn. **The drawer may provide the certification**  
 5 **orally or in writing at any time prior to processing a payment.**

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

11 Sec. 36. (1) ~~No~~**Not** later than the close of business on the  
 12 day he or she signed a deferred presentment service agreement **or**  
 13 **small loan agreement**, a drawer **or small loan customer** who believes  
 14 that a licensee has violated this act may notify the licensee in  
 15 person that the licensee has violated the act. The drawer **or small**  
 16 **loan customer** shall identify the nature of the violation and  
 17 provide documentary or other evidence of the violation at that  
 18 time.

19 (2) At any time before signing a new deferred presentment  
 20 service agreement **or small loan agreement** with a licensee, a drawer  
 21 **or small loan customer** who believes that the licensee has violated  
 22 this act in connection with a deferred presentment service  
 23 transaction **or small loan** may deliver to the licensee a notice in  
 24 writing that the licensee has violated the act. The drawer **or small**  
 25 **loan customer** shall identify the nature of the violation and  
 26 include documentary or other evidence of the violation in the  
 27 notice.

28 (3) ~~No~~**Not** later than the close of the third business day  
 29 after receipt of a notice under subsection (1) or (2), the licensee



1 shall determine if it has violated the law as alleged in the  
2 notice.

3 (4) If the licensee determines that it has violated the law,  
4 it shall return to the drawer the check it received in the deferred  
5 presentment service transaction, **or return to the small loan**  
6 **customer any payments of principal and interest it received under**  
7 **the small loan agreement**, and any service fee paid by the drawer **or**  
8 **small loan customer** to the licensee. The drawer **or small loan**  
9 **customer** shall deliver to the licensee cash or a cash equivalent in  
10 an amount equal to the amount of cash the drawer **or small loan**  
11 **customer** received in the transaction. In addition, the licensee  
12 shall make restitution to the drawer **or small loan customer** for  
13 each violation in an amount equal to 5 times the amount of the fee  
14 charged in the deferred presentment service transaction **or small**  
15 **loan agreement**, but not less than \$15.00 or more than the face  
16 amount of the drawer's check **or the principal amount of the small**  
17 **loan**. A licensee that makes restitution for a violation under this  
18 subsection may be subject to a civil action under section 53 with  
19 respect to that violation. A licensee that makes restitution for a  
20 violation under this subsection shall immediately notify the  
21 commissioner of that action. The licensee shall give the  
22 commissioner detailed information about the terms of the deferred  
23 presentment service transaction **or small loan** —and shall provide  
24 other information requested by the commissioner.

25 (5) If the licensee determines that it did not violate the  
26 law, the licensee shall immediately notify the commissioner, and  
27 the drawer **or small loan customer**, of that determination. The  
28 licensee shall give the commissioner detailed information about the  
29 terms of the deferred presentment service transaction **or small loan**





1 and shall provide other information requested by the commissioner.  
2 The licensee shall include in the notification to the drawer **or**  
3 **small loan customer** that the drawer **or small loan customer** has the  
4 right to file a written complaint with the ~~office~~**department** if he  
5 or she does not agree with the determination that the licensee did  
6 not violate the law. The licensee shall include in the notice  
7 detailed information on how the drawer **or small loan customer** can  
8 contact the ~~office~~**department** to obtain a complaint form.

9 (6) A drawer **or small loan customer** who receives a notice of  
10 determination by the licensee that it did not violate the law may  
11 file a written complaint with the ~~office~~**department** on a form  
12 prescribed by the commissioner. The drawer **or small loan customer**  
13 shall include with the complaint documentary or other evidence of  
14 the violation.

15 (7) ~~If~~**In a deferred presentment service transaction, if** the  
16 licensee has otherwise complied with this section and has  
17 determined that it did not violate the law, the licensee may  
18 present the drawer's check for payment on or after the maturity  
19 date. If a check presented for payment under this subsection is not  
20 honored, and the licensee is not in violation of this act in  
21 connection with the deferred presentment service transaction, the  
22 licensee may initiate any lawful collection effort.

23 (8) The commissioner shall promptly investigate a complaint  
24 filed by a drawer **or small loan customer** under this section. If  
25 after investigating the drawer's **or small loan customer's**  
26 complaint, the commissioner concludes that the licensee violated  
27 this act, the commissioner may order the licensee to make  
28 restitution to the drawer **or small loan customer** in an amount equal  
29 to 3 times the amount provided for in subsection (4), but not less



1 than \$45.00 or more than 3 times the face amount of the drawer's  
2 check **or the principal amount of the small loan.** A licensee ordered  
3 to pay restitution under this subsection is also subject to any  
4 other applicable penalties and remedies available under this act  
5 for the violation.

6 (9) A licensee shall enter information regarding alleged  
7 violations and determinations under this section into the database  
8 as required by the commissioner.

9 (10) **A small loan customer is not subject to any criminal  
10 penalty for entering into a small loan agreement and is not subject  
11 to any criminal penalty in the event the small loan customer's  
12 payment is dishonored.**

13 Sec. 45. (1) A customer may file a written complaint with the  
14 ~~office~~**department** on a form prescribed by the commissioner  
15 regarding a licensee. The customer shall include with the complaint  
16 documentary or other evidence of the violation or activities of the  
17 licensee. The commissioner shall investigate a complaint filed by a  
18 customer under this subsection.

19 (2) The commissioner may investigate or conduct examinations  
20 of a licensee and conduct hearings as the commissioner considers  
21 necessary to determine whether a licensee or any other person has  
22 violated this act, or whether a licensee has conducted business in  
23 a manner that justifies suspension or forfeiture of its authority  
24 to engage in the business of providing deferred presentment service  
25 transactions **and small loans** in this state.

26 (3) The commissioner may subpoena witnesses and documents,  
27 papers, books, records, and other evidence in any manner over which  
28 the commissioner has jurisdiction, control, or supervision. The  
29 commissioner may administer oaths to any person whose testimony is



1 required. If a person fails to comply with a subpoena issued by the  
2 commissioner or to testify with respect to any matter concerning  
3 which the person may be lawfully questioned, the commissioner may  
4 petition the circuit court for Ingham ~~county~~**County** to issue an  
5 order requiring the person to attend, give testimony, or produce  
6 evidence.

7       Sec. 48. (1) If the commissioner finds that a person has  
8 violated this act, state or federal law, or an applicable rule or  
9 regulation, the commissioner may order the person to pay a civil  
10 fine of not less than \$1,000.00 or more than \$10,000.00 for each  
11 violation. However, if the commissioner finds that a person has  
12 violated this act and that the person knew or reasonably should  
13 have known that he or she was in violation of this act, the  
14 commissioner may order the person to pay a civil fine of not less  
15 than \$5,000.00 or more than \$50,000.00 for each violation. The  
16 commissioner may also order the person to pay the costs of the  
17 investigation. **In addition to any civil fine that may be assessed**  
18 **under this subsection upon a finding that a person has violated**  
19 **this act, state or federal law, or an applicable rule or**  
20 **regulation, the commissioner may order the person to pay a consumer**  
21 **literacy fee of not more than \$500.00 for each violation. The fee**  
22 **collected under this subsection shall be deposited into the**  
23 **consumer education and financial services access and literacy fund.**

24       (2) A civil fine assessed under subsection (1) may be sued for  
25 and recovered by and in the name of the commissioner and may be  
26 collected and enforced by summary proceedings by the attorney  
27 general. In determining the amount of a fine, the commissioner  
28 shall consider the extent to which the violation was a knowing and  
29 willful violation, the extent of the injury suffered because of the



1 violation, the corrective action taken by the licensee to ensure  
2 that the violation will not be repeated, and the record of the  
3 licensee in the complying with this act.

4       Sec. 53. A person injured by a licensee's violation of this  
5 act may maintain a civil cause of action against the licensee and  
6 may recover actual damages and an amount equal to the service fee  
7 paid in connection with each deferred presentment service  
8 transaction, **or the interest and service fee paid in connection**  
9 **with each small loan agreement**, that is found to violate this act,  
10 plus reasonable attorney fees.

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

