HOUSE BILL NO. 4004

January 26, 2021, Introduced by Rep. Hall and referred to the Committee on Regulatory Reform.

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:

TITLE

An act to regulate the business of providing deferred presentment service transactions; to require the licensing of providers of deferred presentment service transactions; to authorize licensed providers of deferred presentment service transactions to make certain small loans; to create a fund and provide for fees; to prescribe powers and duties of certain state agencies and officials; and to prescribe penalties and provide remedies.

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

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

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

(c) "Closed" means 1 of the following, as applicable:

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

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

(A) The check is redeemed by the customer by payment to the licensee of the face amount of the check in cash or payment from a debit card that meets the requirements of section 35(11).
(B) The check is exchanged by the licensee for a cashier's check or cash from the customer's financial institution.

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

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

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

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

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

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

(f) "Customer" means any of the following, as applicable:

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

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

(g) "Database provider" means 1 of the following:

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

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

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

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

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

(i) "Department" means the department of insurance and financial services.

(j) "Director" means the director of the department or his or her authorized representative.

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

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

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

(n) "Financial licensing act" means this act or any of the financial licensing acts as that term is defined in section 2 of the consumer financial services act, 1988 PA 161, MCL 487.2052.

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

(p) (c) "Maturity date" means the 1 of the following, as applicable:
(i) The date a small loan, or the last installment of the small loan, is due.
(ii) The date on which a drawer's check is to be redeemed, presented for payment, or entered into the check-clearing process in a deferred presentment service transaction.

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

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

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

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

(u) "Small loan" means, subject to subsection (3), a loan made by a licensee that meets all of the following:
(i) The loan is made to 1 or more individuals for personal, family, or household use.
(ii) The principal amount of the loan does not exceed
$2,500.00.

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

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

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

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

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

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

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

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

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

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

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

Sec. 13. (1) An applicant for a license under this act shall submit an application for a license to the commissioner. Each application for a license shall must be in writing and under oath, in a form prescribed by the commissioner, and shall must include all of the following information:
(a) The name, street address, and telephone number of the business location within this state from which the applicant will offer deferred presentment service transactions or small loans, if available.

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

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

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

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

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

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

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

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

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

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

(b) At least 15 days before discontinuing deferred presentment service transactions or small loans at any existing location or under section 13(1)(c), provide written notice to the commissioner on a form prescribed by the commissioner of the name, street address, and telephone number of the discontinued location or the detailed description of the services required in section 13(1)(c).
(4) A licensee shall comply with any request for information or documentation made by the commissioner under this act and shall comply with any reasonable written time deadlines imposed by the commissioner on that request.

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

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

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

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

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

Sec. 22. (1) On or before December 31, 2006, the commissioner
shall develop, implement, and maintain a statewide, common database
that has real-time access through an internet connection, is
accessible at all time to licensees, and to the commissioner for
purposes of subsections (10) and (11), and meets the requirements
of this section. Before the commissioner determines that the
data base 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
data base provider shall make the pilot program available to all
applicants and licensees. During the 30-day period that begins on
the date the commissioner determines that the database is fully
operational, the commissioner shall not approve the imposition of
any database verification fees under section 34(5). Within 90 days
after the effective date of the amendatory act that added section
31a, the commissioner shall implement any changes to the database
that the commissioner determines are necessary to include small
loans in the database for the purposes of this act.

(2) The commissioner 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
contracts with a third-party third-party provider for the operation
of the database, all of the following apply:

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

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

(c) In selecting a third-party provider to act as the database provider, the commissioner shall give strong consideration to the third-party provider's ability to prevent fraud, abuse, and other unlawful activity associated with deferred presentment service transactions or small loans and provide additional tools for the administration and enforcement of this act.

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

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

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

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

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

(b) Provide information necessary to ensure licensee compliance with any requirements imposed by the Office of Foreign Assets Control under federal law.
(c) Track and monitor the number of customers who notify a
licensee of violations of this act, the number of times a licensee
agreed that a violation occurred, the number of times that a
licensee did not agree that a violation occurred, the amount of
restitution paid, and any other information the commissioner
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, 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 445.79d.

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

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

(f) Meet the requirements of this act.

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

(6) The database provider shall automatically designate a deferred presentment service transaction or small loan as closed in the database 5 days after the transaction or loan maturity date unless a licensee reports to the database provider before that time that the transaction or loan remains open because of the customer's failure to make payment, that, in connection with a deferred presentment service transaction, the transaction is open because the customer's check or an electronic redeposit is in the process of clearing the banking system, or that the transaction remains open because the customer's check is being returned to the licensee for insufficient funds, a closed account, or a stop payment order, or any other factors determined by the commissioner. If a licensee reports the status of a deferred presentment service transaction or small loan as open in a timely manner, the transaction or loan remains an open transaction or loan until it is closed under section 34 and the database provider is notified that the transaction or loan is closed under that section.

(7) If a licensee stops providing deferred presentment service transactions or small loans, the database provider shall designate all open transactions with that licensee as closed in the database 60 days after the date the licensee stops offering deferred presentment service transactions or small loans, unless the licensee reports to the database provider before the expiration of the 60-day period which of its transactions or loans remain open and the specific reason each transaction or loan remains open. The licensee shall also provide to the commissioner a reasonably acceptable plan that outlines how the licensee will continue to
update the database after it stops offering deferred presentment service transactions or small loans. The commissioner shall promptly approve or disapprove the plan and immediately notify the licensee of his or her decision. If the plan is disapproved, the licensee may submit a new plan or may submit a modified plan for the licensee to follow. If at any time the commissioner reasonably determines that a licensee that has stopped offering deferred presentment service transactions or small loans is not updating the database in accordance with its approved plan, the commissioner shall immediately close or instruct the database provider to immediately close all remaining open transactions or loans of that licensee.

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

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

(10) The commissioner may access the database provided under
subsection (1) only for purposes of an investigation of,
examination of, or enforcement action concerning, an individual
database provider, licensee, customer, or other person. The
commissioner and any employees of the commissioner, the office, or
this state shall not obtain or access a customer's social security
Social Security number, driver license number, or other state-
issued identification number in the database except as provided in
this subsection. An individual who violates this subsection is
guilty of a misdemeanor punishable by imprisonment for not more
than 93 days or a fine of not more than $1,000.00, or both, and if
convicted, an individual who violates this subsection shall must be
dismissed from office or discharged from employment.

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

(12) The commissioner shall do all of the following:
(a) Require by rule that data are be retained in the database
only as required to ensure licensee compliance with this act.
(b) Require by rule that data in the database concerning a
customer deferred presentment service transaction are or small loan
be archived within 365 days after the customer transaction or loan
is closed unless needed for a pending enforcement action.
(c) Require by rule that any identifying customer information
is be deleted from the database when data are archived.
(d) Require by rule that data in the database concerning a
customer **deferred presentment service transaction** and **or small loan** be deleted from the database 3 years after the customer transaction or loan is closed or any enforcement action pending 3 years after the customer transaction **or loan** is closed is completed, whichever is later.

(13) The commissioner may maintain access to data archived under subsection (12) for future legislative or policy review.

Sec. 24. (1) The consumer education and financial services access and literacy fund is created within the state treasury. The department is the administrator of the fund for auditing purposes.

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

(3) Money in the fund at the close of the year remains in the fund and does not lapse to the general fund.

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

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

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

Sec. 31. (1) A licensee shall post prominently in an area designed to be seen by the customer before he or she enters into a deferred presentment service transaction the following notice in at
1. A deferred presentment service transaction is not intended to meet long-term financial needs. We can only defer cashing your check for up to 31 days.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6. State law entitles you to information regarding filing a
complaint against us if you believe that we have violated the law.

If you feel we are acting unlawfully, you should call the
Department of Insurance and Financial Services toll-free at 1-877-
999-6442."

(2) A licensee shall post prominently in an area designed to
be seen by the customer before he or she enters into a small loan
agreement a schedule of all fees and charges imposed for small
loans in at least 36-point type.
Sec. 32. (1) A licensee shall document a deferred presentment service transaction by entering into a written deferred presentment service agreement signed by both the customer and the licensee.

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

(a) The name of the customer.

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

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

(d) The date of the transaction.

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

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

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

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

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

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

(k) The maturity date.

(l) A provision that the licensee will defer presentment, defer negotiation, and defer entering a check into the check-clearing process until the maturity date.
(m) A description of the process a drawer may use to file a complaint against the licensee.

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

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

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

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

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

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

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

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

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

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

10. If you are unable to pay your deferred presentment service transaction and have entered into 8 deferred presentment service transactions with any licensee in any 12-month period, state law entitles you to request a repayment of that transaction in installments. We are required to advise you of this option at the time it is available. If you elect this option, you must notify us, either orally or in writing, within 30 days after the maturity date of the deferred presentment transaction. The notice must be provided to us at our place of business. You may be charged an additional fee when the transaction is rescheduled in installments.

You will be ineligible to enter into a deferred presentment service transaction with any licensee during the term of the repayment plan. If we refuse to provide this option under the stipulations above, you should contact the Office of Financial and Insurance Services—Department of Insurance and Financial Services toll-free at 1-877-999-6442."

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

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

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

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

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

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

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

(a) The name of the customer.
(b) The name, street address, facsimile number, and telephone number of the licensee.
(c) The signature and printed or typed name of the individual who enters into the small loan agreement on behalf of the licensee.
(d) The date of the transaction.
(e) The amount of the small loan.
(f) An itemization of the fees to be paid by the customer.
(g) A calculation of the cost of the fees and charges to the customer, expressed as a percentage rate per year.
(h) A clear description of the customer's payment obligation under the small loan agreement.
(i) Except as otherwise provided under this subdivision, a repayment schedule with installment payments of substantially equal amounts of principal and service fees amortizing over the term of the small loan such that the loan is repaid in full by the maturity date. If the licensee and customer mutually agree, the repayment schedule may provide for different payment amounts over the term of the small loan. However, the repayment schedule must not include a payment due at the maturity date that is substantially larger than any previously scheduled installment payment.

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

(k) The maturity date.

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 33. (1) A licensee may enter
into a single deferred presentment service transaction with a
customer for any amount up to $600.00. All of the following apply to a deferred presentment service transaction:

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

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

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

(A) Fifteen percent of the first $100.00 of the deferred presentment service transaction.

(B) Fourteen percent of the second $100.00 of the deferred presentment service transaction.

(C) Thirteen percent of the third $100.00 of the deferred presentment service transaction.

(D) Twelve percent of the fourth $100.00 of the deferred presentment service transaction.

(E) Eleven percent of the fifth $100.00 of the deferred presentment service transaction.

(F) Eleven percent of the sixth $100.00 of the deferred presentment service transaction.

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

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

(a) A licensee may charge a customer a service fee for each small loan. A licensee may charge both of the following as part of the service fee, as applicable:
(i) A fee that does not exceed 11% of the amount of the small loan and is not charged more frequently than monthly.

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

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

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

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

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

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

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

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

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

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

a. Before the close of business on the day you sign the agreement, notify us in person of the violation. You must provide supporting documents or other evidence of the violation."
b. At any time before signing a new deferred presentment service agreement or small loan agreement with us, notify us in writing of the violation. Your written notice must state the violation and provide supporting documents or other evidence of the violation.

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

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

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

5. If you still believe we violated the law, you may file a written complaint including supporting documents or other evidence with the Office of Financial and Insurance Department of Insurance and Financial Services. The Office Department is required to investigate your complaint and has the authority to order us to pay you restitution if they agree that we violated the law. In addition, the Office Department can order us to pay civil fines or take away our right to do business. To do so, contact the Office of Financial and Insurance Department of Insurance and Financial Services toll-free at 1-877-999-6442."
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(b) Provide a copy of the signed agreement to the drawer.
(c) Pay the proceeds under the agreement to the drawer by delivering a business check of the licensee, a money order, or cash, as requested by the drawer.

(6) (4) At the time of entering into a deferred presentment service transaction, a licensee shall not do any of the following:
(a) Charge interest under the agreement.
(b) Include a maturity date that is more than 31 days after the date of the transaction.
(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.

(7) (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.

(8) (6) Each 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."

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

(a) If the commissioner has not implemented a database under section 22 or the database described in that section is not fully operational, as determined by the commissioner, verifying that the customer does not have an open deferred presentment service transaction or small loan with the licensee. The licensee shall maintain a database of all of the licensee's deferred presentment service transactions and small loans at all of its locations and search that database to meet its obligation under this subdivision.

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

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

"I DO NOT HAVE ANY OUTSTANDING DEFERRED PRESENTMENT SERVICE TRANSACTIONS WITH THIS LICENSEE AND I DO NOT HAVE MORE THAN ONE
OUTSTANDING DEFERRED PRESENTMENT SERVICE TRANSACTION WITH ANY OTHER LICENSED DEFERRED PRESENTMENT SERVICE PROVIDER IN THIS STATE."

(3) If a licensee is unable to access the database described in section 22 due to technical difficulties occurring with the database, as determined by the commissioner, the licensee shall utilize the process established in section 22(4) to verify deferred presentment service transactions and small loans.

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

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

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

(7) Before entering into a deferred presentment service transaction or small loan, 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 or loan, the customer's check number if the customer is entering into a deferred presentation service transaction, the date of the transaction or loan, the maturity date of the transaction or loan, and any other information reasonably required by the commissioner or the database provider, in a format reasonably required by the commissioner.

(8) When a deferred presentment service transaction or small loan is closed, the licensee shall designate the transaction or loan 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 shall assess an administrative fine of $100.00 for each day that the licensee fails to notify the database provider that the transaction or loan 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. 35. (1) The following apply to the renewal of deferred presentment service agreements and small loan agreements:

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

(b) A licensee shall not renew a small loan agreement unless both of the following conditions are met:
1 (i) The customer has made all payments as scheduled.
2 (ii) The customer has made at least 30% of all scheduled payments or retired at least 50% of the principal.
3 (c) A licensee shall not charge a rate for the renewal of a small loan agreement that is higher than the rate charged for the original small loan.
4 (d) A licensee and customer may agree to convert a deferred presentment service transaction to a small loan, subject to the limits on outstanding small loans provided in this act.
5 (2) If a drawer enters into 8 deferred presentment service transactions with any licensee in any 12-month period, the licensee shall provide the drawer an option to repay that eighth transaction and each additional transaction in that 12-month period pursuant to a written repayment plan subject to the following terms:
6 (a) The drawer shall request the repayment plan, either orally or in writing, within 30 days after the maturity date of the deferred presentment service transaction.
7 (b) The drawer shall repay the transaction in 3 equal installments with 1 installment due on each of the next 3 dates on which the drawer receives regular wages or compensation from an employer or other regular source of income, pursuant to a written repayment plan agreement.
8 (c) The drawer shall pay a fee to the licensee for administration of the repayment plan. The initial amount of the fee is $15.00. Beginning March 1, 2011, and by March 1 of every fifth year after March 1, 2011, the licensee may adjust the fee by an amount determined by the director to reflect the cumulative percentage change in the Detroit Consumer Price Index over the preceding 5 calendar years. As used in this
subsection, subdivision, "Detroit consumer price index" Consumer Price Index" means the most comprehensive index of consumer prices available for the Detroit area from the Bureau of Labor Statistics of the United States Department of Labor.

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

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

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

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

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

(6) A drawer satisfies his or her obligation under a deferred presentment service agreement when the check the licensee is holding is paid by the drawee or is redeemed by the drawer by paying to the licensee an amount equal to the full amount of the
(7) Unless the drawer has entered into a written repayment plan under subsection (2), a licensee shall deposit a check held in connection with a deferred presentment service transaction on the maturity date if the check is not redeemed in the manner described in section 2(1)(c)(i), 2(1)(c)(ii)(A), or exchanged in the manner described in section 2(1)(c)(ii), 2(1)(c)(ii)(B), on or before the maturity date.

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

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

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

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

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

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

(11) In a deferred presentment service transaction, a
licensee shall only accept a payment by debit card to redeem a
check the licensee is holding if the drawer certifies to the
licensee that the debit card draws funds from the same account on
which the check is drawn. The drawer may provide the certification
orally or in writing at any time prior to processing a payment.

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

Sec. 36. (1) By not later than the close of business on the
day he or she signed a deferred presentment service agreement or
small loan agreement, a drawer or small loan customer who believes
that a licensee has violated this act may notify the licensee in
person that the licensee has violated the act. The drawer or small
loan customer shall identify the nature of the violation and
provide documentary or other evidence of the violation at that
time.

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

(3) **No—By not** later than the close of the third business day
after receipt of a notice under subsection (1) or (2), the licensee
shall determine if it has violated the law as alleged in the
notice.

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

(5) If the licensee determines that it did not violate the
law, the licensee shall immediately notify the commissioner, and
the drawer or small loan customer, of that determination. The
licensee shall give the commissioner detailed information about the
terms of the deferred presentment service transaction or small loan
and shall provide other information requested by the commissioner.
The licensee shall include in the notification to the drawer or
small loan customer that the drawer or small loan customer has the
right to file a written complaint with the office department if he
or she does not agree with the determination that the licensee did
not violate the law. The licensee shall include in the notice
detailed information on how the drawer or small loan customer can
contact the office department to obtain a complaint form.

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

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

(8) The commissioner shall promptly investigate a complaint
filed by a drawer or small loan customer under this section. If
after investigating the drawer's or small loan customer's
complaint, the commissioner concludes that the licensee violated
this act, the commissioner may order the licensee to make
restitution to the drawer or small loan customer in an amount equal
to 3 times the amount provided for in subsection (4), but not less
than $45.00 or more than 3 times the face amount of the drawer's
check or the principal amount of the small loan. A licensee ordered
to pay restitution under this subsection is also subject to any
other applicable penalties and remedies available under this act
for the violation.

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

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

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

(2) The commissioner may investigate or conduct examinations
of a licensee and conduct hearings as the commissioner considers
necessary to determine whether a licensee or any other person has
violated this act, or whether a licensee has conducted business in
a manner that justifies suspension or forfeiture of its authority
to engage in the business of providing deferred presentment service
transactions and small loans in this state.
(3) The commissioner may subpoena witnesses and documents, papers, books, records, and other evidence in any manner over which the commissioner has jurisdiction, control, or supervision. The commissioner may administer oaths to any person whose testimony is required. If a person fails to comply with a subpoena issued by the commissioner or to testify with respect to any matter concerning which the person may be lawfully questioned, the commissioner may petition the circuit court for Ingham County to issue an order requiring the person to attend, give testimony, or produce evidence.

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

(2) A civil fine assessed under subsection (1) may be sued for and recovered by and in the name of the commissioner and may be
collected and enforced by summary proceedings by the attorney general. In determining the amount of a fine, the commissioner shall consider the extent to which the violation was a knowing and willful violation, the extent of the injury suffered because of the violation, the corrective action taken by the licensee to ensure that the violation will not be repeated, and the record of the licensee in the complying with this act.

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

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