

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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House Bill 5641 (Substitute H-3 as passed by the House)
Sponsor: Representative Randy Richardville
House Committee: Insurance and Financial Services

CONTENT

The bill would create the "Deferred Presentment Services Act", effective July 1, 2003, to regulate deferred presentment services (transactions in which a provider agreed to pay a customer an agreed-upon amount in exchange for a fee, and agreed not to present, or cash, the customer's check for an agreed-upon time, which could not exceed 31 days). The bill would do the following:

- Require a person to notify the Commissioner of the Office of Financial and Insurance Services (OFIS) before beginning operation as a deferred presentment service provider.
- Require a provider to furnish a \$50,000 surety bond and pay an annual business operating fee in an amount determined by the Commissioner.
- Allow a provider to enter into a deferred presentment services agreement with a customer for an amount up to \$1,000, plus a service fee that could not exceed 18% of the amount paid to the customer, and prohibit the provider from charging interest.
- Require providers to post a notice that customers would see before entering into an deferred presentment agreement.
- Require a transaction to be documented by a written agreement.
- Prohibit transactions with customers who had unpaid deferred presentment service agreement.
- Prohibit the renewal of a transaction, but allow an extension for no additional fee.
- Allow a customer, within a year after signing an agreement, to notify the provider that he or she believed the provider had violated the Act; require the provider to respond as described in the bill; and require a provider to report to the Commissioner the number of customers who had notified the provider of violations.
- Allow a customer to file a complaint with the OFIS regarding a provider, and to sue a provider if the customer were injured by the provider's violation.
- Authorize the Commissioner to investigate providers; issue cease and desist orders; issue orders suspending or forfeiting a provider's authority to operate; order providers to pay restitution; and order the payment of a civil fine per violation of up to \$10,000, or up to \$50,000 for a knowing violation.
- Allow providers to collect a returned check charge of up to \$25 and exercise any other legal remedy in connection with a returned check.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would require the Office of Financial and Insurance Services to regulate businesses offering deferred presentment services. These additional responsibilities would increase the costs for the Office. The bill would authorize the Commissioner to assess operating fees for this type of business and assess civil fines for violations. The fees would be set at a level necessary to cover the administrative costs, which could include additional staffing.

Date Completed: 12-11-02

Fiscal Analyst: Maria Tyszkiewicz

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Analysis available @ <http://www.michiganlegislature.org>

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