

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 607

A bill to amend 2005 PA 244, entitled
"Deferred presentment service transactions act,"
by amending section 2 (MCL 487.2122).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

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

5 (i) The check is redeemed by the customer by payment to the
6 licensee of the face amount of the check in cash **OR PAYMENT FROM A**
7 **DEBIT CARD THAT MEETS THE REQUIREMENTS OF SECTION 35(11)**.

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

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

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

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

18 (vi) **THE CHECK IS COLLECTED BY THE LICENSEE UNDER SECTION**
19 **35(9) AND THE LICENSEE HAS EVIDENCE THAT THE PERSON HAS SATISFIED**
20 **THE OBLIGATION.**

21 (d) "Commissioner" means the ~~commissioner of the office of~~
22 ~~financial and insurance services~~ **DIRECTOR** or his or her authorized
23 representative.

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

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

2 (i) A third party provider selected by the ~~commissioner~~
3 **DIRECTOR** under section 22 to operate the statewide database
4 described in that section.

5 (ii) If the ~~commissioner~~**DIRECTOR** has not selected a third
6 party provider under section 22, the ~~commissioner~~**DIRECTOR**.

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

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

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

14 **(H) "DEPARTMENT" MEANS THE DEPARTMENT OF INSURANCE AND**
15 **FINANCIAL SERVICES.**

16 **(I) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OR HIS OR**
17 **HER AUTHORIZED REPRESENTATIVE.**

18 **(J) ~~(h)~~**"Drawee" means a bank, savings bank, savings and loan
19 association, credit union, or other person ~~upon~~**ON** which a check is
20 drawn.

21 **(K) ~~(i)~~**"Drawer" means a customer who enters into a deferred
22 presentment service transaction with a licensee.

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

27 **(M) ~~(k)~~**"Financial licensing act" means this act ~~, the~~

1 ~~consumer financial services act, 1988 PA 161, MCL 487.2051 to~~
2 ~~487.2072, or any of the acts listed in section 2(d) FINANCIAL~~
3 **LICENSING ACTS AS DEFINED IN SECTION 2** of the consumer financial
4 services act, 1988 PA 161, MCL 487.2052.

5 (N) ~~(l)~~ "Licensee" means a person **THAT IS** licensed to engage
6 in the business of providing deferred presentment service
7 transactions under this act.

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

12 (P) ~~(n)~~ "Office" OR **"OFFICE OF FINANCIAL AND INSURANCE**
13 **SERVICES"** means the ~~office of financial and insurance services of~~
14 ~~the department of labor and economic growth.~~ **DEPARTMENT.**

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

18 (R) **"REDEEM" MEANS THAT THE CUSTOMER PAYS TO THE LICENSEE AN**
19 **AMOUNT EQUAL TO THE FACE AMOUNT OF A CHECK INCLUDED IN A DEFERRED**
20 **PRESENTMENT SERVICE TRANSACTION, ON OR BEFORE THE MATURITY DATE OR**
21 **AFTER THE CHECK IS DEPOSITED AND RETURNED UNPAID BY THE DRAWEE, AND**
22 **THE LICENSEE RETURNS THE CHECK TO THE CUSTOMER.**

23 (2) Deferred presentment service transaction does not include
24 a delay in presentment of a loan repayment check, at the request of
25 the borrower, by a person **THAT IS** licensed or registered under the
26 consumer financial services act, 1988 PA 161, MCL 487.2051 to
27 487.2072, the regulatory loan act, 1939 PA 21, MCL 493.1 to 493.24,

1 the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81,
2 the motor vehicle sales finance act, 1950 (Ex Sess) PA 27, MCL
3 492.101 to 492.141, 1984 PA 379, MCL 493.101 to 493.114, ~~the sale~~
4 ~~of checks act, 1960 PA 136, MCL 487.901 to 487.916, THE MONEY~~
5 **TRANSMISSION SERVICES ACT, 2006 PA 250, MCL 487.1001 TO 487.1047,**
6 or the mortgage brokers, lenders, and servicers licensing act, 1987
7 PA 173, MCL 445.1651 to 445.1684.

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

10 Enacting section 2. This amendatory act does not take effect
11 unless Senate Bill No. 719 of the 98th Legislature is enacted into
12 law.