

SENATE BILL NO. 889

May 30, 2024, Introduced by Senator BAYER and referred to the Committee on Finance, Insurance, and Consumer Protection.

A bill to amend 2005 PA 244, entitled
"Deferred presentment service transactions act,"
by amending section 22 (MCL 487.2142).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 22. (1) On or before December 31, 2006, the ~~commissioner~~
2 **director** shall develop, implement, and maintain a statewide, common
3 database that has real-time access through an internet connection,
4 is accessible at all time to licensees, and to the ~~commissioner~~
5 **director** for purposes of subsections (10) and (11), and meets the

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

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

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

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

25 (c) In selecting a ~~third party~~**third-party** provider to act as
26 the database provider, the ~~commissioner~~**director** shall give strong
27 consideration to the ~~third party~~**third-party** provider's ability to
28 prevent fraud, abuse, and other unlawful activity associated with
29 deferred presentment service transactions and provide additional

1 tools for the administration and enforcement of this act.

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

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

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

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

15 (a) Verify whether a customer has any open deferred
16 presentment service transactions with any licensee that have not
17 been closed.

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

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

28 (d) Determine whether a customer is eligible for repayment of
29 the deferred presentment service transaction in installments as

1 provided in section 35(2) and notify the licensee of that
2 eligibility.

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

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

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

11 (c) Comply with any applicable provisions of the identity
12 theft protection act, 2004 PA 452, MCL 445.61 to ~~445.77~~.**445.80c**.

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

15 (e) Meet the requirements of this act.

16 (5) When the database provider receives notification that a
17 deferred presentment service transaction is closed under section
18 34, the database provider shall designate the transaction as closed
19 in the database immediately, but in no event after 11:59 p.m. on
20 the day the ~~commissioner~~**director** or database provider receives
21 notification.

22 (6) The database provider shall automatically designate a
23 deferred presentment service transaction as closed in the database
24 5 days after the transaction maturity date unless a licensee
25 reports to the database provider before that time that the
26 transaction remains open because of the customer's failure to make
27 payment, ~~that~~ the transaction is open because the customer's
28 check or an electronic redeposit is in the process of clearing the
29 banking system, ~~or~~ that the transaction remains open because the

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

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

29 (8) The response to an inquiry to the database provider by a

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

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

17 (10) The ~~commissioner~~ **director** may access the database
18 ~~provided under~~ **described in** subsection (1) only for purposes of an
19 investigation of, examination of, or enforcement action concerning
20 an individual database provider, licensee, customer, or other
21 person. The ~~commissioner~~ **director** and any employees of the
22 ~~commissioner~~ **director**, the ~~office~~ **department**, or this state shall
23 not obtain or access a customer's ~~social security~~ **Social Security**
24 number, driver license number, or other state-issued identification
25 number in the database except as provided in this subsection. An
26 individual who violates this subsection is guilty of a misdemeanor
27 punishable by imprisonment for not more than 93 days or a fine of
28 not more than \$1,000.00, or both, and if convicted, an individual
29 who violates this subsection ~~shall~~ **must** be dismissed from office or

1 discharged from employment.

2 (11) The ~~commissioner~~**director** shall investigate violations of
3 and enforce this section. The ~~commissioner~~**director** shall not
4 delegate ~~its~~**the director's** responsibilities under this subsection
5 to any ~~third party~~**third-party** provider.

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

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

9 (b) Require by rule that data in the database concerning a
10 customer transaction ~~are~~**be** archived ~~within~~**not later than** 365 days
11 after the customer transaction is closed unless needed for a
12 pending enforcement action.

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

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

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

23 Enacting section 1. This amendatory act does not take effect
24 unless Senate Bill No. 888 of the 102nd Legislature is enacted into
25 law.