

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

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

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

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

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

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

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

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

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

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

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



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

5 **(F)** ~~(vi)~~—The check is collected by the licensee under section
 6 35(9) and the licensee has evidence that the person has satisfied
 7 the obligation.

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

10 (e) "Customer" means ~~an~~ **1 of the following, as applicable:**

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

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

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

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

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

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

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

29 (ii) Hold a customer's check for a period of time before



1 negotiation, redemption, or presentment of the checks.

2 (h) "Department" means the department of insurance and
3 financial services.

4 (i) "Director" means the director of the department or his or
5 her authorized representative.

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

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

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

15 (m) "Financial licensing act" means this act or any of the
16 financial licensing acts as defined in section 2 of the consumer
17 financial services act, 1988 PA 161, MCL 487.2052.

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

21 (o) "Maturity date" means ~~the~~ **1 of the following, as**
22 **applicable:**

23 (i) **The date a small loan, or the last installment of the small**
24 **loan, is due.**

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

28 (p) "Office" or "office of financial and insurance services"
29 means the department.



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

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

9 (s) **With respect to an existing small loan, "renewal" means**
10 **renewing, repaying, refinancing, or consolidating the existing**
11 **small loan with the proceeds of another small loan or a deferred**
12 **presentment service transaction. The term renewal does not include**
13 **the conversion of a deferred presentment service transaction to a**
14 **small loan.**

15 (t) Subject to subsection (3), "small loan" means a loan made
16 by a licensee that meets all of the following:

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

19 (ii) The principal amount of the loan does not exceed
20 \$2,500.00.

21 (iii) The maturity date for the loan is not fewer than 90 days
22 after the date of the transaction.

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

25 (2) Deferred presentment service transaction does not include
26 a delay in presentment of a loan repayment check, at the request of
27 the ~~borrower,~~ **customer**, by a person that is licensed or registered
28 under the ~~consumer financial services act, 1988 PA 161, MCL~~
29 ~~487.2051 to 487.2072, the regulatory loan act, 1939 PA 21, MCL~~



1 ~~493.1 to 493.24, the secondary mortgage loan act, 1981 PA 125, MCL~~
 2 ~~493.51 to 493.81, the motor vehicle sales finance act, 1950 (Ex~~
 3 ~~Sess) PA 27, MCL 492.101 to 492.141, 1984 PA 379, MCL 493.101 to~~
 4 ~~493.114, the money transmission services act, 2006 PA 250, MCL~~
 5 ~~487.1001 to 487.1047, or the mortgage brokers, lenders, and~~
 6 ~~servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684.a~~
 7 **financial licensing act.**

8 **(3) Small loan does not include a loan or other extension of**
 9 **credit that is made by a person that is licensed or registered**
 10 **under a financial licensing act or by an entity described in**
 11 **section 11(2).**

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

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

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

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

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



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

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

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

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

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

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



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

3 (2) An applicant shall include an application fee in an amount
4 determined by the commissioner with the application described in
5 subsection (1).

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

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

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

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

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

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



1 description required in section 13(1)(c).

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

8 (4) A licensee shall comply with any request for information
9 or documentation made by the commissioner under this act and shall
10 comply with any reasonable written time deadlines imposed by the
11 commissioner on that request.

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

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

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

21 Sec. 22. (1) On or before December 31, 2006, the commissioner
22 shall develop, implement, and maintain a statewide, common database
23 that has real-time access through an internet connection, is
24 accessible at all time to licensees, and to the commissioner for
25 purposes of subsections (10) and (11), and meets the requirements
26 of this section. Before the commissioner determines that the
27 database is fully operational for the purposes of this act, for at
28 least 30 days the database provider shall operate a pilot program
29 of the database to test all of the processes of the database. The



1 database provider shall make the pilot program available to all
 2 applicants and licensees. During the 30-day period that begins on
 3 the date the commissioner determines that the database is fully
 4 operational, the commissioner shall not approve the imposition of
 5 any database verification fees under section 34(5). **Within 90 days**
 6 **after the effective date of the amendatory act that added section**
 7 **31a, the commissioner shall implement any changes to the database**
 8 **that the commissioner determines are necessary to include small**
 9 **loans in the database for the purposes of this act.**

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

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

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

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

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



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

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

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

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

14 (b) Provide information necessary to ensure licensee
15 compliance with any requirements imposed by the federal ~~office of~~
16 ~~foreign asset control~~ **Office of Foreign Assets Control** under
17 federal law.

18 (c) Track and monitor the number of customers who notify a
19 licensee of violations of this act, the number of times a licensee
20 agreed that a violation occurred, the number of times that a
21 licensee did not agree that a violation occurred, the amount of
22 restitution paid, and any other information the commissioner
23 requires by rule.

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

28 (4) While operating the database, the database provider shall
29 do all of the following:



1 (a) Establish and maintain a process for responding to
 2 transaction verification requests due to technical difficulties
 3 occurring with the database that prevent the licensee from
 4 accessing the database through the internet.

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

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

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

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

13 **(f) Provide industry-aggregated data to a licensee upon**
 14 **request and within a reasonable period of time.**

15 **(g) ~~(e)~~Meet the requirements of this act.**

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

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



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

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



1 immediately close all remaining open transactions **or loans** of that
2 licensee.

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

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

22 (10) The commissioner may access the database provided under
23 subsection (1) only for purposes of an investigation of,
24 examination of, or enforcement action concerning, an individual
25 database provider, licensee, customer, or other person. The
26 commissioner and any employees of the commissioner, the office, or
27 this state shall not obtain or access a customer's ~~social security~~
28 **Social Security** number, driver license number, or other state-
29 issued identification number in the database except as provided in



1 this subsection. An individual who violates this subsection is
 2 guilty of a misdemeanor punishable by imprisonment for not more
 3 than 93 days or a fine of not more than \$1,000.00, or both, and if
 4 convicted, an individual who violates this subsection shall be
 5 dismissed from office or discharged from employment.

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

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

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

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

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

18 (d) Require by rule that data in the database concerning a
 19 customer **deferred presentment service** transaction ~~are~~**or small loan**
 20 **be** deleted from the database 3 years after the customer transaction
 21 **or loan** is closed or any enforcement action pending 3 years after
 22 the customer transaction **or loan** is closed is completed, whichever
 23 is later.

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

26 Sec. 31. (1) A licensee shall post prominently in an area
 27 designed to be seen by the customer before he or she enters into a
 28 deferred presentment service transaction the following notice in at
 29 least 36-point type:



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

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

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

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

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

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

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

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



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

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

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 deferred
24 presentment service transaction a schedule of all fees and charges
25 imposed for deferred presentment service transactions in at least
26 36-point type.

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



1 type:

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

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

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

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

18 5. State law prohibits us from using any criminal process to
19 collect on a deferred presentment service agreement.

20 6. State law entitles you to information regarding filing a
21 complaint against us if you believe that we have violated the law.
22 If you feel we are acting unlawfully, you should call the
23 Department of Insurance and Financial Services toll-free at 1-877-
24 999-6442."

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

29 Sec. 32. (1) A licensee shall document a deferred presentment



1 service transaction by entering into a written deferred presentment
2 service agreement signed by both the customer and the licensee.

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

5 (a) The name of the customer.

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

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

11 (d) The date of the transaction.

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

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

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

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

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

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

25 (k) The maturity date.

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

29 (m) A description of the process a drawer may use to file a



1 complaint against the licensee.

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

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

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

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

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

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

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

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

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



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

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

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

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

27 (b) Provides that an arbitration proceeding shall be held
28 within 10 miles of the drawer's address contained in the deferred
29 presentment service transaction agreement unless the drawer



1 consents to another location after an arbitrable dispute occurs.

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

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

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

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

16 (a) The name of the customer.

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

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

21 (d) The date of the transaction.

22 (e) The amount of the small loan.

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

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

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

28 (i) Except as otherwise provided under this subdivision, a
29 repayment schedule with installment payments of substantially equal



1 amounts of principal and service fees amortizing over the term of
2 the small loan such that the loan is repaid in full by the maturity
3 date. If the licensee and customer mutually agree, the repayment
4 schedule may provide for different payment amounts over the term of
5 the small loan. However, the repayment schedule shall not include a
6 payment due at the maturity date that is substantially larger than
7 any previously scheduled installment payment.

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

11 (k) The maturity date.

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

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

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

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

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

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



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

3 6. State law entitles you to information regarding filing a
4 complaint against us if you believe that we have violated the law.
5 If you feel we are acting unlawfully, you should call the
6 Department of Insurance and Financial Services toll-free at 1-877-
7 999-6442.".

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

22 **(2) Subject to subsection (3), a licensee may enter into a**
 23 **single small loan agreement with a customer for any amount up to**
 24 **\$2,500.00. All of the following apply to a small loan:**

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

28 **(i) A fee that does not exceed 11% of the amount of the small**



1 loan and is not charged more frequently than monthly.

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

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

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

9 (d) When underwriting, making, or negotiating a small loan, in
10 determining the amount and duration of the loan, a licensee shall
11 take into consideration the customer's reasonable financial ability
12 to repay the loan in the time and manner provided in the
13 prospective small loan agreement.

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

15 (3) ~~(2)~~—A licensee shall not enter into a deferred presentment
16 service transaction **or small loan agreement** with a customer if the
17 customer has an open deferred presentment service transaction **or**
18 **small loan agreement** with the licensee or has more than 1 open
19 deferred presentment service transaction **or a small loan agreement**
20 with any other licensee, and shall verify whether the customer has
21 an open deferred presentment service transaction **or small loan**
22 **agreement** with the licensee or has more than 1 open deferred
23 presentment service transaction **or a small loan agreement** with any
24 other licensee by complying with section 34. **This subsection does**
25 **not prohibit the use of the proceeds of a small loan to pay in full**
26 **an existing deferred presentment service transaction with the**
27 **licensee.**

28 (4) A licensee shall comply with the requirements of 12 CFR
29 part 205 if the licensee accepts an authorization to make



1 electronic payments from the customer's account in connection with
2 a deferred presentment service transaction or small loan agreement.
3 A licensee shall comply with the requirements of 12 CFR part 1041
4 applicable to covered loans in making a small loan or entering into
5 a small loan agreement.

6 (5) ~~(3)~~—At the time of entering into a deferred presentment
7 service transaction, a licensee shall do all of the following:

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

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

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

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

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

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



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

6 5. If you still believe we violated the law, you may file a
 7 written complaint including supporting documents or other evidence
 8 with the ~~Office of Financial and Insurance~~ **Department of Insurance**
 9 **and Financial** Services. The ~~Office~~ **Department** is required to
 10 investigate your complaint and has the authority to order us to pay
 11 you restitution if they agree that we violated the law. In
 12 addition, the ~~Office~~ **Department** can order us to pay civil fines or
 13 take away our right to do business. To do so, contact the ~~Office of~~
 14 ~~Financial and Insurance~~ **Department of Insurance and Financial**
 15 **Services** toll-free at 1-877-999-6442.".

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

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

20 **(6)** ~~(4)~~—At the time of entering into a deferred presentment
 21 service transaction, a licensee shall not do any of the following:

22 (a) Charge interest under the agreement.

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

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

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

29 (e) Except as provided in this act, charge or collect any



1 other fees for a deferred presentment service transaction.

2 (7) ~~(5)~~—A licensee shall not refuse to provide a deferred
3 presentment service transaction to a customer solely because the
4 customer has exercised his or her rights under this act.

5 (8) ~~(6)~~—Each licensee shall post a sign, printed in bold
6 faced, 36-point type, in a conspicuous location at each customer
7 service window, station, or desk at each place of business, that
8 states the following:

9 "Under Michigan law, you are entitled to receive the proceeds
10 of this transaction in cash. If you request the proceeds in a check
11 or money order, you may be charged additional check cashing or
12 other processing fees by others for cashing the check or money
13 order."

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

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

26 (b) If the commissioner has implemented a database under
27 section 22 and the database described in that section is fully
28 operational, as determined by the commissioner, accessing the
29 database and verifying that the customer does not have an



1 outstanding deferred presentment service transaction **or small loan**
 2 with the licensee and does not have more than 1 open deferred
 3 presentment service transaction **or a small loan** that has not been
 4 fully repaid with any other licensee.

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

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

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

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

25 (5) If approved by the commissioner, the database provider may
 26 impose a database verification fee for the actual costs of
 27 entering, accessing, and verifying data in the database described
 28 in section 22 to verify that a customer does not have any other
 29 open deferred presentment service transactions **or small loans** with



1 the licensee and does not have more than 1 open deferred
2 presentment service transaction **or a small loan** with any other
3 licensees. A database verification fee is payable to the database
4 provider in a manner prescribed by the commissioner. A licensee may
5 charge a customer all or part of the database verification fee
6 under section 33(1)(b) **or (2)(a)** but may not charge a customer any
7 other fee except as authorized in section 33(1) **or (2)** or 35(2).

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

12 (7) Before entering into a deferred presentment service
13 transaction **or small loan**, a licensee shall submit to the database
14 provider the customer's name and address, the customer's ~~social~~
15 ~~security~~ **Social Security** number, driver license number, or other
16 state-issued identification number, the amount of the transaction
17 **or loan**, the customer's check number **if the customer is entering**
18 **into a deferred presentment service transaction**, the date of the
19 transaction **or loan**, the maturity date of the transaction **or loan**,
20 and any other information reasonably required by the commissioner
21 or the database provider, in a format reasonably required by the
22 commissioner.

23 (8) When a deferred presentment service transaction **or small**
24 **loan** is closed, the licensee shall designate the transaction **or**
25 **loan** as closed and immediately notify the database provider, but in
26 no event after 11:59 p.m. on the day the transaction is closed. The
27 commissioner shall assess an administrative fine of \$100.00 for
28 each day that the licensee fails to notify the database provider
29 that the transaction **or loan** has been closed. It is a defense to



1 the assessment of an administrative fine that notifying the
 2 database provider was not possible due to temporary technical
 3 problems with the database or to circumstances beyond the
 4 licensee's control.

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

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

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

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

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

18 **(c)** A licensee shall not charge a rate for a renewed small
 19 loan that is higher than the rate charged for the original small
 20 loan.

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

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

29 (a) The drawer shall request the repayment plan, either orally



1 or in writing, within 30 days after the maturity date of the
2 deferred presentment service transaction.

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

8 (c) The drawer shall pay a fee to the licensee for
9 administration of the repayment plan. The initial amount of the fee
10 is \$15.00. Beginning March 1, 2011, and by March 1 of every fifth
11 year after March 1, 2011, the licensee may adjust the fee by an
12 amount determined by the director to reflect the cumulative
13 percentage change in the Detroit ~~consumer price index~~ **Consumer**
14 **Price Index** over the preceding 5 calendar years. As used in this
15 subsection, ~~subdivision~~, "Detroit ~~consumer price index~~" **Consumer**
16 **Price Index**" means the most comprehensive index of consumer prices
17 available for the Detroit area from the Bureau of Labor Statistics
18 of the United States Department of Labor.

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

21 (3) A licensee shall advise a ~~customer-drawer~~ of the repayment
22 option described in subsection (2) at the time he or she is
23 eligible. If a ~~customer-drawer~~ believes he or she has been
24 illegally denied the repayment option under this section, he or she
25 is entitled to contact the department toll-free at 1-877-999-6442.
26 If a customer has entered into 8 deferred presentment service
27 transactions in any 12-month period, the database provider shall
28 notify the licensee when the licensee submits the required customer
29 information to the database for that ~~customer-drawer~~ that the



1 ~~customer-drawer~~ is entitled to a repayment plan under this section.
 2 The database provider shall instruct the licensee to provide the
 3 ~~customer-drawer~~ with the following notice, in a document separate
 4 from the deferred presentment transaction agreement and in at least
 5 12-point type:

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

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

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



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

11 (6) A drawer satisfies his or her obligation under a deferred
 12 presentment service agreement when the check the licensee is
 13 holding is paid by the drawee or is redeemed by the drawer by
 14 paying to the licensee an amount equal to the full amount of the
 15 check.

16 (7) Unless the drawer has entered into a written repayment
 17 plan under subsection (2), a licensee shall deposit a check held in
 18 connection with a deferred presentment service transaction on the
 19 maturity date if the check is not redeemed in the manner described
 20 in section ~~2(1)(c)(i)~~, **2(1)(c)(ii)(A)**, or exchanged in the manner
 21 described in ~~section 2(1)(c)(ii)~~, **2(1)(c)(ii)(B)**, on or before the
 22 maturity date.

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

27 (9) If the drawer has an outstanding deferred presentment
 28 service transaction in which a check held in connection with the
 29 transaction was deposited and returned unpaid, the licensee may



1 collect the check by means of 1 or more telephone-initiated entries
2 if all of the following are met:

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

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

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

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

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

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

29 Sec. 36. (1) ~~No~~**Not** later than the close of business on the



1 day he or she signed a deferred presentment service agreement **or**
2 **small loan agreement**, a drawer **or small loan customer** who believes
3 that a licensee has violated this act may notify the licensee in
4 person that the licensee has violated the act. The drawer **or small**
5 **loan customer** shall identify the nature of the violation and
6 provide documentary or other evidence of the violation at that
7 time.

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

17 (3) ~~No~~**Not** later than the close of the third business day
18 after receipt of a notice under subsection (1) or (2), the licensee
19 shall determine if it has violated the law as alleged in the
20 notice.

21 (4) If the licensee determines that it has violated the law,
22 it shall return to the drawer the check it received in the deferred
23 presentment service transaction, **or return to the small loan**
24 **customer any payments of principal and interest it received under**
25 **the small loan agreement**, and any service fee paid by the drawer **or**
26 **small loan customer** to the licensee. The drawer **or small loan**
27 **customer** shall deliver to the licensee cash or a cash equivalent in
28 an amount equal to the amount of cash the drawer **or small loan**
29 **customer** received in the transaction. In addition, the licensee



1 shall make restitution to the drawer **or small loan customer** for
2 each violation in an amount equal to 5 times the amount of the fee
3 charged in the deferred presentment service transaction **or small**
4 **loan agreement**, but not less than \$15.00 or more than the face
5 amount of the drawer's check **or the principal amount of the small**
6 **loan**. A licensee that makes restitution for a violation under this
7 subsection may be subject to a civil action under section 53 with
8 respect to that violation. A licensee that makes restitution for a
9 violation under this subsection shall immediately notify the
10 commissioner of that action. The licensee shall give the
11 commissioner detailed information about the terms of the deferred
12 presentment service transaction **or small loan agreement** and shall
13 provide other information requested by the commissioner.

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

27 (6) A drawer **or small loan customer** who receives a notice of
28 determination by the licensee that it did not violate the law may
29 file a written complaint with the ~~office~~**department** on a form



1 prescribed by the commissioner. The drawer **or small loan customer**
 2 shall include with the complaint documentary or other evidence of
 3 the violation.

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

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

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

27 Sec. 45. (1) A customer may file a written complaint with the
 28 ~~office~~ **department** on a form prescribed by the commissioner
 29 regarding a licensee. The customer shall include with the complaint



1 documentary or other evidence of the violation or activities of the
2 licensee. The commissioner shall investigate a complaint filed by a
3 customer under this subsection.

4 (2) The commissioner may investigate or conduct examinations
5 of a licensee and conduct hearings as the commissioner considers
6 necessary to determine whether a licensee or any other person has
7 violated this act, or whether a licensee has conducted business in
8 a manner that justifies suspension or forfeiture of its authority
9 to engage in the business of providing deferred presentment service
10 transactions **and small loans** in this state.

11 (3) The commissioner may subpoena witnesses and documents,
12 papers, books, records, and other evidence in any manner over which
13 the commissioner has jurisdiction, control, or supervision. The
14 commissioner may administer oaths to any person whose testimony is
15 required. If a person fails to comply with a subpoena issued by the
16 commissioner or to testify with respect to any matter concerning
17 which the person may be lawfully questioned, the commissioner may
18 petition the circuit court for Ingham ~~county~~ **County** to issue an
19 order requiring the person to attend, give testimony, or produce
20 evidence.

21 Sec. 51. (1) The commissioner may promulgate rules under the
22 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
23 24.328, to enforce and administer this act.

24 (2) By July 31, 2007, the commissioner shall submit a report
25 to the standing committees of the senate and house of
26 representatives concerned with regulatory reform issues that
27 includes the following information:

28 (a) The number of persons engaged in the business of providing
29 deferred presentment service transactions in this state on the



1 effective date of this act and the number on June 30, 2007.

2 (b) A general report on the business of providing deferred
3 presentment service transactions in this state as of June 30, 2007.
4 The report shall include the number of licensees, the number of
5 customers, the number and amount of transactions, and any other
6 financial information about deferred presentment service
7 transactions in this state requested by the legislature or
8 considered relevant by the commissioner.

9 (3) **Beginning January 1, 2021, the department shall publish on**
10 **its website an annual report on deferred presentment licensees in**
11 **this state. The report shall include for the year preceding the**
12 **publication date the number of licensees, customers served, and**
13 **transactions that took place in this state, the number of**
14 **complaints against licensees and nonlicensees arising from**
15 **transactions that took place in this state, and any additional**
16 **information that the director considers relevant.**

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

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

