

# HOUSE BILL NO. 5364

November 14, 2023, Introduced by Reps. MacDonell and Skaggs and referred to the Committee on Judiciary.

A bill to amend 2005 PA 244, entitled  
"Deferred presentment service transactions act,"  
by amending section 2 (MCL 487.2122), as amended by 2016 PA 140.

**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

1 on a bank, savings bank, savings and loan association, or credit  
2 union. Check includes any negotiable instrument that represents  
3 evidence of an obligation to pay even if it is described on its  
4 face by another term.

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

9 (i) The check is redeemed by the customer by payment to the  
10 licensee of the face amount of the check in cash or payment from a  
11 debit card that meets the requirements of section 35(11).

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

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

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

18 (v) The check is collected by means of a repayment plan agreed  
19 on by the customer and the licensee or as the result of credit  
20 counseling where the licensee is paid the amount agreed ~~upon~~**on** by  
21 the licensee under that plan.

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

25 (d) "Commissioner" means the director or ~~his or her~~**the**  
26 **director's** authorized representative.

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

1 service transaction.

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

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

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

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

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

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

15 (h) "Department" means the department of insurance and  
16 financial services.

17 (i) "Director" means the director of the department or ~~his or~~  
18 ~~her~~ **the director's** authorized representative.

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

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

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

28 (m) "Financial licensing act" means this act, or any of the  
29 financial licensing acts, as **that term is** defined in section 2 of

1 the consumer financial services act, 1988 PA 161, MCL 487.2052.

2 (n) "Licensee" means a person that is licensed to engage in  
3 the business of providing deferred presentment service transactions  
4 under this act.

5 (o) "Maturity date" means the date on which a drawer's check  
6 is to be redeemed, presented for payment, or entered into the  
7 check-clearing process in a deferred presentment service  
8 transaction.

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

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

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

19 (2) Deferred presentment service transaction does not include  
20 a delay in presentment of a loan repayment check, at the request of  
21 the borrower, by a person that is licensed or registered under **any**  
22 **of the following:**

23 (a) **The** consumer financial services act, 1988 PA 161, MCL  
24 487.2051 to 487.2072. ~~the~~

25 (b) **The** regulatory loan act, 1939 PA 21, MCL 493.1 to 493.24.  
26 ~~the~~

27 (c) **The** secondary mortgage loan act, 1981 PA 125, MCL 493.51  
28 to 493.81. ~~the~~

29 (d) **The** motor vehicle sales finance act, 1950 (Ex Sess) PA 27,

1 MCL 492.101 to ~~492.141~~, **492.137a**.

2 (e) 1984 PA 379, MCL 493.101 to 493.114. ~~the~~

3 (f) **The** money transmission services act, 2006 PA 250, MCL  
4 487.1001 to 487.1047. ~~or the~~

5 (g) **The** mortgage brokers, lenders, and servicers licensing  
6 act, 1987 PA 173, MCL 445.1651 to 445.1684.

7 Enacting section 1. This amendatory act does not take effect  
8 unless Senate Bill No. \_\_\_\_ or House Bill No. 5354 (request no.  
9 03158'23) of the 102nd Legislature is enacted into law.