

**SUBSTITUTE FOR  
HOUSE BILL NO. 5641**

A bill to regulate the business of deferred presentment services; to prescribe powers and duties of certain state agencies and officials; and to prescribe penalties and provide remedies.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1. (1) This act shall be known and may be cited as the  
2 "deferred presentment services act".

3       (2) A person who provided deferred presentment services  
4 before July 1, 2003 is considered to have complied with applica-  
5 ble state law if the person provided the services in substantial  
6 conformity with the rulings then in effect that were issued by  
7 the office or its predecessor agency.

8       Sec. 2. As used in this act:

9       (a) "Check" means a draft payable on demand and drawn on a  
10 bank, savings bank, savings and loan association, or credit

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1 union. Check includes any negotiable instrument that represents  
2 evidence of an obligation to pay even though it is described on  
3 its face by another term.

4 (b) "Commissioner" means the commissioner of the office of  
5 financial and insurance services or an authorized  
6 representative.

7 (c) "Customer" means an individual who inquires into the  
8 availability of a deferred presentment service and includes a  
9 drawer who enters into a deferred presentment service agreement.

10 (d) "Deferred presentment service" means a transaction  
11 between a provider and a customer under which the provider agrees  
12 to do all of the following:

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

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

17 (e) "Drawee" means a bank, savings bank, savings and loan  
18 association, credit union, or other person upon which a check is  
19 drawn.

20 (f) "Drawer" means the customer who enters into a deferred  
21 presentment service agreement with a provider.

22 (g) "Executive officer" means an officer or director of a  
23 provider or any other individual who has the authority to partic-  
24 ipate in the direction, directly or indirectly, through 1 or more  
25 persons, or the management or policies of a provider.

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1       (h) "Financial licensing acts" means the acts listed in  
2     section 2 of the consumer financial services act, 1988 PA 161,  
3     MCL 487.2052.

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

8       (j) "Office" means the office of financial and insurance  
9     services of the department of consumer and industry services.

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

13      (l) "Provider" means a person who engages in the business of  
14     deferred presentment services in this state.

15      Sec. 3. (1) Beginning July 1, 2003, 30 days or more before  
16     a person commences operation as a provider, the person shall pro-  
17     vide written notice to the commissioner on a form prescribed by  
18     the commissioner that contains all of the following:

19      (a) The name, street address, and telephone number of the  
20     principal place of business of the person.

21      (b) The name, street address, and telephone number of each  
22     business location within this state from which the person will  
23     offer deferred presentment services.

24      (c) If no physical business location will be operated in  
25     this state or if in addition to the locations described in  
26     subdivision (b) deferred presentment services will be available  
27     by other means, a detailed description of the manner in which

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1 deferred presentment services will be offered to customers in  
2 this state.

3 (d) The name, street address, and telephone number of each  
4 executive officer.

5 (e) Any other information the commissioner considers neces-  
6 sary under this act.

7 (2) A person who operated as a provider before January 1,  
8 2003 shall provide written notice to the commissioner no later  
9 than the date required in section 22, on a form prescribed by the  
10 commissioner, of all of the information required in  
11 subsection (1).

12 (3) In addition to the requirements of subsection (1) or  
13 (2), a provider shall do all of the following:

14 (a) At least 15 days before providing deferred presentment  
15 services at any new location or in a new manner, provide written  
16 notice to the commissioner on a form prescribed by the commis-  
17 sioner of the name, street address, and telephone number of the  
18 new location or detailed description of the new manner.

19 (b) At least 15 days before discontinuing deferred present-  
20 ment services at any existing location or other manner, provide  
21 written notice to the commissioner on a form prescribed by the  
22 commissioner of the name, street address, and telephone number of  
23 the discontinued location or detailed description of the discon-  
24 tinued manner.

25 (c) At any time that any information previously submitted to  
26 the commissioner under this section is no longer accurate,

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1 promptly file in writing with the commissioner a correction of  
2 the information.

3 (d) At least annually and within a reasonable time after  
4 requested by the commissioner, provide a written report of its  
5 business operations including business volume and other informa-  
6 tion on the business of providing deferred presentment services  
7 as requested by the commissioner.

8 (e) Every February 1, May 1, August 1, and November 1,  
9 report to the commissioner on a form prescribed by the commis-  
10 sioner all of the following:

11 (i) The number of customers who during that quarterly  
12 reporting period have notified the provider of a violation of  
13 this act.

14 (ii) A breakdown of the number of times the provider agreed  
15 that the violation occurred and the number of times that the pro-  
16 vider did not agree that the violation occurred.

17 (iii) If the provider agreed that the violation occurred,  
18 the amount of restitution that was paid to each customer under  
19 this act.

20 (iv) Any other information the commissioner considers neces-  
21 sary under this act.

22 Sec. 4. (1) A provider shall pay a business operating fee  
23 in an amount and at a time determined by the commissioner as  
24 follows:

25 (a) For a provider described in section 3(1), within 60 days  
26 after commencing operations, and then annually.

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1 (b) For a provider described in section 3(2), by March 1,  
2 2003, and then annually.

3 (2) The commissioner shall annually establish a schedule of  
4 fees based upon each provider's business volume, number of loca-  
5 tions, and any other business factor considered reasonable by the  
6 commissioner in order to generate funds sufficient to pay, but  
7 not to exceed, the office's reasonably anticipated costs of  
8 administering this act. A provider shall pay the actual travel,  
9 lodging, and meal expenses incurred by office employees who  
10 travel out of state to examine the records of or investigate the  
11 provider.

12 (3) Money received under this act shall be deposited in the  
13 state treasury and credited to the office to be used only for the  
14 operation of the office.

15 (4) In addition to the operating fee required under  
16 subsection (1), a provider shall furnish a \$50,000.00 surety bond  
17 issued by a bonding company or insurance company authorized to do  
18 business in this state and in a form satisfactory to the commis-  
19 sioner, to secure the performance of the obligations of the  
20 provider.

21 Sec. 5. A provider who fails to provide notification or  
22 fails to provide or misreports any information required by  
23 section 3 or who fails to pay the operating fee as required under  
24 section 4 forfeits its authority to continue operating as a pro-  
25 vider under this act. The commissioner may initiate an action  
26 under section 18 against the provider and an executive officer,  
27 employee, or agent of the provider who fails to provide any

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1 notice or information required by section 3 or who fails to pay  
2 the business operation fee required by section 4.

3       Sec. 6. (1) A provider shall post prominently in an area  
4 designed to be seen by the customer before he or she enters into  
5 a deferred presentment services agreement the following notice in  
6 at least 32-point type:

7           "1. We cannot give you money if you currently  
8           have a deferred presentment service agreement  
9           that has not been repaid. Before signing an  
10          agreement with us, you will have to certify that  
11          you do not currently have an agreement with us  
12          or with any other provider.

13          2. We must immediately give you a copy of your  
14          signed agreement.

15          3. State law gives you certain rights if you  
16          believe we have violated the law. Please read  
17          your agreement carefully and ask questions if  
18          you don't fully understand those rights.

19          4. You can cancel an agreement and receive a  
20          refund of the fee if you provide us with the  
21          proper notice and return the money you receive  
22          today. To do this, you must notify us by the  
23          time this office closes tomorrow or on our next  
24          business day if we are not open tomorrow.

25          Please read your agreement for further  
26          information.

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1           5. We cannot renew a deferred presentment  
2           services transaction with you. You have to pay  
3           a transaction in full before obtaining addi-  
4           tional money from us.

5           6. If you feel we are acting unlawfully, you  
6           should call the Office of Financial and  
7           Insurance Services toll-free at  
8           1-877-999-6442.".

9           (2) A provider shall post prominently in an area designed to  
10          be seen by the customer before he or she enters into a deferred  
11          presentment services agreement a schedule of all fees and charges  
12          imposed for deferred presentment services in at least 36-point  
13          type.

14          Sec. 7. (1) A provider shall document a deferred present-  
15          ment service transaction by entering into a written deferred pre-  
16          sentment services agreement signed by both the customer and the  
17          provider.

18          (2) A provider shall include all of the following in the  
19          written deferred presentment services agreement:

20               (a) The name of the customer.

21               (b) The name, street address, telephone number, and facsim-  
22          ile number of the provider.

23               (c) The signature and printed or typewritten name of the  
24          individual who enters into the deferred presentment services  
25          agreement on behalf of the provider.

26               (d) The date of the agreement.



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1           (e) The amount of the check presented to the provider by the  
2 customer.

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

4           (g) A clear description of the customer's payment obligation  
5 under the agreement.

6           (h) The maturity date.

7           (i) An authorization from the drawer to the provider to  
8 defer presentment, defer negotiation, or defer entering the check  
9 into the check-clearing process until the maturity date.

10          (j) A description of the process a drawer may use to file a  
11 complaint against a provider.

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

13               "1. This deferred presentment service transac-  
14 tion is not intended to meet long-term financial  
15 needs. We can only defer cashing your check for  
16 up to 31 days.

17               2. You should use this service only to meet  
18 short-term cash needs.

19               3. State law prohibits us from entering into  
20 this transaction with you if you already have a  
21 deferred presentment service agreement in effect  
22 with any other person providing this service.

23               4. We must immediately give you a copy of your  
24 signed contract.

25               5. After signing this agreement, if you believe  
26 that we have violated the law, you may do 1 of  
27 the following:

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

B. On or before the fifth business day after you sign the agreement, notify us in writing delivered by mail, telegram, facsimile, electronic mail, in person, or other means of the violation. Your written notice must state the violation and provide supporting documents or other evidence of the violation.

6. We have three business days to determine if we agree that we have violated the law and let you know of that determination.

7. If we agree that we have violated the law, we must return your check and you must return the cash received under the agreement.

Additionally, for each violation, we must pay you restitution equal to five times the amount of the fee we charged you under the agreement but not more than the face amount of your check. If we pay you restitution for violating the law, you cannot attempt to recover more from us for that violation.

8. If we don't agree that we have violated the law, we may present your check for payment or enter your check into the check-clearing process

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on or after the maturity date. If your check is returned to us unpaid, we may take other legal steps to collect our money.

9. If you still believe we violated the law, you may file a written complaint including supporting documents or other evidence with the Office of Financial and Insurance Services. The office is required to investigate your complaint and has the authority to order us to pay you restitution if they agree that we violated the law. In addition, the office can order us to pay civil fines or take away our right to do business.

10. You may cancel this agreement at no cost and for any reason if you notify us in writing by the close of business tomorrow or on our next business day if we are not open tomorrow. You must deliver to us cash in an amount equal to the amount you received under the agreement and we must return your check including any fees paid by you.

11. State law prohibits us from renewing this agreement. We cannot extend this transaction with you for any additional fees. After you have redeemed your check or it has been paid by your bank, savings bank, savings and loan association, credit union, or other person, you

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1           may enter into a new agreement for a deferred  
2           presentment service with us.

3           12. State law prohibits us from using any crimi-  
4           nal process to collect on this deferred present-  
5           ment service agreement.".

6           Sec. 8. (1) A provider may enter into a deferred present-  
7           ment services agreement with a customer for any amount up to  
8           \$1,000.00, plus the fee authorized in this section. A provider  
9           may charge a service fee for each deferred presentment service  
10          transaction that does not exceed an amount equal to 18% of the  
11          amount paid by the provider to the customer.

12          (2) A provider shall not enter into a deferred presentment  
13          service agreement with a customer if the customer has a deferred  
14          presentment service agreement that has not been fully repaid. A  
15          provider who uses due diligence in determining whether a customer  
16          has any outstanding agreements with the provider or its affili-  
17          ated companies and who obtains certification of no outstanding  
18          agreements from the customer at the time of entering into the  
19          agreement is considered to have complied with this subsection. A  
20          customer who enters into an agreement in violation of this sub-  
21          section is not entitled to the remedies provided under section 10  
22          or through the office as otherwise provided under this act with  
23          regard to that agreement.

24          (3) At the time of entering into a deferred presentment  
25          service agreement, a provider shall do all of the following:

26               (a) Provide a copy of the signed deferred presentment  
27          service agreement to the drawer.

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1       (b) Pay the proceeds under the agreement to the drawer in  
2 cash if requested by the drawer. Otherwise, the provider may pay  
3 the proceeds under the agreement to the drawer in the form of the  
4 provider's business check, money order, cash, or any other valid  
5 method of monetary transfer.

6       (4) At the time of entering into a deferred presentment  
7 service agreement, a provider shall not do any of the following:

8       (a) Charge interest under the agreement.

9       (b) Include a maturity date that is more than 31 days after  
10 the date of the agreement.

11       (c) Charge an additional fee for cashing the provider's  
12 business check that was given to the drawer.

13       (d) Include a confession of judgment in a deferred present-  
14 ment services agreement.

15       (e) Except as otherwise provided in this act, charge or col-  
16 lect any other fees for a deferred presentment service.

17       (5) A provider shall not refuse to provide a deferred pre-  
18 sentment service to a customer solely because the customer has  
19 exercised his or her rights under this act.

20       Sec. 9. (1) A provider shall not renew a deferred present-  
21 ment service agreement. A provider may extend a deferred pre-  
22 sentment service agreement only if the provider does not charge a  
23 fee in connection with the extended transaction. A provider who  
24 extends an agreement under this subsection shall not create a  
25 balance owed above the amount owed on the original agreement.

26       (2) A provider shall not present a check for payment before  
27 the maturity date. In addition to the remedies and penalties

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1 under this act, a provider who presents a check for payment  
2 before the maturity date is liable for all expenses and damages  
3 caused to the drawer and the drawee as a result of the  
4 violation.

5 (3) A drawer has satisfied his or her obligation under a  
6 deferred presentment service agreement when the check being held  
7 by the provider has been paid by the drawee or has been redeemed  
8 by the drawer by paying to the provider an amount equal to the  
9 full amount of the check. If the drawer has satisfied his or her  
10 obligation under a deferred presentment service agreement, the  
11 provider or any other provider may enter into a new deferred pre-  
12 sentment service agreement with that drawer.

13 Sec. 10. (1) No later than [6 months following ] the day  
14 he or she signed a deferred presentment service agreement, a  
15 drawer who believes that a provider has violated this act may  
16 notify the provider in person that the provider has violated the  
17 act. The drawer shall identify the nature of the violation and  
18 provide documentary or other evidence of the violation at that  
19 time.

20 (2) No later than [1 year ] after signing a deferred  
21 presentment services agreement, a drawer who believes that a pro-  
22 vider has violated this act may deliver to the provider a notice  
23 in writing that the provider has violated the act. The drawer  
24 shall identify the nature of the violation and include documen-  
25 tary or other evidence of the violation in the notice.

26 (3) No later than the close of the third business day after  
27 receipt of a notice under subsection (1) or (2), the provider

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1 shall determine if it has violated the law as alleged in the  
2 notice.

3 (4) If the provider determines that it has violated the law,  
4 it shall return to the drawer the check received under the agree-  
5 ment and any cash fees paid by the drawer to the provider. The  
6 drawer shall deliver to the provider cash or a cash equivalent in  
7 an amount equal to the amount of cash the drawer received under  
8 the agreement. In addition, the provider shall make restitution  
9 to the drawer for each violation in an amount equal to 5 times  
10 the amount of the fee charged in the drawer's deferred present-  
11 ment service agreement but not less than \$15.00 nor more than the  
12 face amount of the drawer's check. A provider who makes restitu-  
13 tion for a violation under this subsection is not subject to any  
14 other remedy provided for a violation under this act with respect  
15 to that violation.

16 (5) If the provider determines that it did not violate the  
17 law, the provider shall immediately notify the commissioner and  
18 the drawer of that determination. The provider shall give the  
19 commissioner detailed information of the agreement and shall pro-  
20 vide other information requested by the commissioner. The pro-  
21 vider shall include in the notification to the drawer that the  
22 drawer has the right to file a written complaint with the office  
23 if he or she does not agree with the determination that the pro-  
24 vider did not violate the law. The provider shall include in the  
25 notice detailed information on how the drawer can contact the  
26 office to obtain a complaint form.

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1           (6) A drawer who receives a notice of determination by the  
2 provider that it did not violate the law may file a written  
3 complaint with the office on a form prescribed by the  
4 commissioner. The drawer shall include with the complaint docu-  
5 mentary or other evidence of the violation.

6           (7) If the provider has otherwise complied with this section  
7 and has determined that it did not violate the law, the provider  
8 may present the check for payment on or after the maturity date.  
9 If a check presented for payment under this subsection is not  
10 honored, a provider may initiate lawful collection efforts.

11           (8) The commissioner shall promptly investigate a complaint  
12 filed by a drawer under this section. If after investigating the  
13 drawer's complaint, the commissioner concludes that the provider  
14 has violated the act, the commissioner may order the provider to  
15 make restitution to the drawer in an amount equal to 3 times the  
16 amount provided for in subsection (4) but not less than \$45.00  
17 nor more than 3 times the full amount of the check. A provider  
18 ordered to pay restitution under this subsection is also subject  
19 to other penalties and remedies under this act for violations of  
20 this act with respect to that violation.

[ (9) A drawer injured by a provider in violation of this act may maintain a civil cause of action against the provider and may recover an amount equal to twice the service fee paid in connection with each deferred presentment service transaction that is found to violate this act, plus reasonable attorney fees, provided the injured drawer initiates the civil cause of action within 2 years following the date of the violation.

(10) The attorney general shall have the same powers provided for under the Michigan consumer protection act, 1976 PA 331, MCL 445.901 to 445.922, to enforce this act.

(11) Failure to disclose the costs of each deferred presentment services agreement as a dollar cost and an annual percentage rate is a violation of this act.]

21           Sec. 11. (1) A drawer may rescind a deferred presentment  
22 service agreement at no cost and for any reason if the drawer,  
23 not later than the close of business on the business day follow-  
24 ing the date of the agreement, delivers to the provider cash or a  
25 cash equivalent in an amount equal to the amount of cash the  
26 drawer received under the agreement. The provider shall return  
27 to the drawer the check received under the agreement and any cash



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1 fees paid by the drawer to the provider. A drawer who rescinds  
2 an agreement under this section is not eligible for restitution  
3 as provided in section 10 with regard to the rescinded  
4 agreement.

5 (2) A drawer may redeem a check from the provider who holds  
6 the check under a deferred presentment service agreement at any  
7 time before the maturity date. A provider shall return the check  
8 to the drawer upon receipt of cash or its equivalent in the full  
9 amount of the check before the maturity date.

10 Sec. 12. A provider shall endorse a check given to it by a  
11 drawer with the actual name under which the provider is doing  
12 business before the provider negotiates or presents the check for  
13 payment.

14 Sec. 13. A provider may contract for and collect a returned  
15 check charge not to exceed \$25.00 if a drawer's check being held  
16 under a deferred presentment services agreement is returned by  
17 the drawee due to insufficient funds, a closed account, or a stop  
18 payment order. In addition to the charge authorized by this sec-  
19 tion, a provider may exercise any other legal remedy available by  
20 law in connection with a check being returned due to a closed  
21 account or a stop payment order.

22 Sec. 14. A drawer is not subject to any criminal penalty  
23 for entering into a deferred presentment service agreement and is  
24 not subject to any criminal penalty in the event the drawer's  
25 check is dishonored.

26 Sec. 15. (1) A provider shall maintain each deferred  
27 presentment service agreement until the expiration of 3 years

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1 after the date the deferred presentment service agreement is  
2 satisfied and make available for examination by the commissioner  
3 deferred presentment service agreements and all related documents  
4 in its possession or control including, as applicable, applica-  
5 tions, credit reports, employment verifications, and loan disclo-  
6 sure statements.

7 (2) Notwithstanding any other provision of this act, a pro-  
8 vider shall preserve and keep available for examination by the  
9 commissioner all documents pertaining to a rejected application  
10 for a deferred presentment service for a period of time required  
11 by law.

12 Sec. 16. (1) A customer may file a written complaint with  
13 the office on a form prescribed by the commissioner regarding a  
14 provider. The customer shall include with the complaint documen-  
15 tary or other evidence of the violation or activities of the  
16 provider. The commissioner shall investigate a complaint filed  
17 by a customer under this act.

18 (2) The commissioner may investigate or conduct examinations  
19 of a provider and conduct hearings as the commissioner considers  
20 necessary to determine whether a provider or any other person has  
21 violated this act, or whether a provider has conducted business  
22 in such manner as would justify suspension or forfeiture of its  
23 authority to engage in the business of deferred presentment serv-  
24 ices in this state.

25 (3) The commissioner may subpoena witnesses and documents,  
26 papers, books, records, and other evidence in any manner over  
27 which the commissioner has jurisdiction, control, or

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1 supervision. The commissioner may administer oaths and  
2 affirmations to any person whose testimony is required. If a  
3 person fails to comply with a subpoena issued by the commissioner  
4 or to testify with respect to any matter concerning which the  
5 person may be lawfully questioned, the commissioner may petition  
6 the circuit court for Ingham county to issue an order requiring  
7 the attendance of the person and the giving of testimony or pro-  
8 duction of evidence.

9       Sec. 17. (1) If in the opinion of the commissioner a pro-  
10 vider is, has, or is about to engage in a practice that poses a  
11 threat of financial loss or threat to the public welfare, or is,  
12 has, or is about to violate this act, state or federal law, or  
13 other applicable rule or regulation, the commissioner may serve a  
14 notice of intention to issue a cease and desist order. A notice  
15 served under this section shall contain a statement of the facts  
16 constituting the alleged practice or violation and shall fix a  
17 time and place at which a hearing will be held to determine  
18 whether an order to cease and desist should be issued against the  
19 provider.

20       (2) If the provider fails to appear at the hearing, the pro-  
21 vider is considered to have consented to the issuance of the  
22 cease and desist order. If a provider consents or, upon the  
23 record made at the hearing, the commissioner finds that the prac-  
24 tice or violation specified in the notice has been established,  
25 the commissioner may serve upon the provider an order to cease  
26 and desist from the practice or violation. The order may require  
27 the provider and its executive officers, employees, and agents to

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1 cease and desist from the practice or violation and to take  
2 affirmative action to correct the conditions resulting from the  
3 practice or violation.

4 (3) Except to the extent it is stayed, modified, terminated,  
5 or set aside by the commissioner or a court, a cease and desist  
6 order shall become effective on the date of service. A cease and  
7 desist order issued upon consent shall become effective at the  
8 time specified in the order and remain effective and enforceable  
9 as provided in the order.

10 Sec. 18. (1) If a provider has violated section 3 or 4 or  
11 if, in the opinion of the commissioner, a provider has engaged in  
12 a pattern of practice that poses a threat of financial loss or  
13 threat to the public welfare, the commissioner may serve a notice  
14 of intention to suspend or forfeit the provider's authority to  
15 continue operating as a provider under this act. A notice served  
16 under this section shall contain a statement of the facts consti-  
17 tuting the violation or pattern of practice and shall fix a time  
18 and place at which a hearing will be held to determine whether an  
19 order to suspend or forfeit the provider's authority to continue  
20 operating as a provider under this act should be issued against  
21 the provider.

22 (2) If the provider fails to appear at the hearing, the pro-  
23 vider is considered to have consented to the issuance of the  
24 order to suspend or forfeit the provider's authority to continue  
25 operating as a provider under this act. If a provider consents  
26 or, upon the record made at the hearing, the commissioner finds  
27 that the pattern of practice or violation specified in the notice

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1 has been established, the commissioner may serve upon the  
2 provider an order suspending or forfeiting the provider's author-  
3 ity to continue operating as a provider under this act.

4 (3) Except to the extent it is stayed, modified, terminated,  
5 or set aside by the commissioner or a court, an order suspending  
6 or forfeiting the provider's authority to continue operating as a  
7 provider under this act shall become effective on the date of  
8 service. An order suspending or forfeiting the provider's  
9 authority to continue operating as a provider under this act  
10 issued upon consent shall become effective at the time specified  
11 in the order and remain effective and enforceable as provided in  
12 the order.

13 Sec. 19. (1) If the commissioner finds that a person has  
14 violated this act, state or federal law, or other applicable rule  
15 or regulation, the commissioner may order the payment of a civil  
16 fine of not more than \$10,000.00 for each violation. However, if  
17 the person knew or reasonably should have known that he or she  
18 was in violation of this act, the commissioner may order the pay-  
19 ment of a civil fine of not more than \$50,000.00 for each  
20 violation. The commissioner may also order the payment of the  
21 costs of the investigation.

22 (2) A civil fine assessed under subsection (1) may be sued  
23 for and recovered by and in the name of the commissioner and may  
24 be collected and enforced by summary proceedings by the attorney  
25 general. In determining the amount of a fine, the commissioner  
26 shall consider the extent to which the violation was a knowing  
27 and willful violation, the extent of the injury suffered because

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1 of the violation, the corrective action taken by the provider to  
2 ensure that the violation will not be repeated, and the record of  
3 the provider in the complying with this act.

4       Sec. 20. (1) A provider ordered to cease and desist, to  
5 suspend its authority to continue operating, to forfeit its  
6 authority to continue operating, or to pay a fine under this act  
7 is entitled to a hearing before the commissioner if a written  
8 request for a hearing is filed with the commissioner not more  
9 than 30 days after the effective date of the order.

10       (2) The proceedings under this act are subject to the admin-  
11 istrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
12 24.328.

13       Sec. 21. The commissioner may promulgate rules under the  
14 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
15 24.328, to enforce and administer this act.

16       Sec. 22. (1) Except as otherwise provided under  
17 subsection (2), this act shall take effect July 1, 2003.

18       (2) A provider described in section 3(2) shall provide the  
19 notice required by that subsection no later than 30 days after  
20 the effective date of this act.