

# HOUSE BILL NO. 5097

October 10, 2019, Introduced by Reps. Iden, Webber, Filler, Hall, Cambensy, Chirkun, Wendzel, Sheppard, Tate and Jones and referred to the Committee on Regulatory Reform.

A bill to amend 2005 PA 244, entitled  
"Deferred presentment service transactions act,"  
by amending the title and sections 2, 11, 13, 15, 17, 22, 31, 32,  
33, 34, 35, 36, 45, and 53 (MCL 487.2122, 487.2131, 487.2133,  
487.2135, 487.2137, 487.2142, 487.2151, 487.2152, 487.2153,  
487.2154, 487.2155, 487.2156, 487.2165, and 487.2173), section 2 as  
amended by 2016 PA 140 and section 35 as amended by 2016 PA 141,  
and by adding sections 31a and 32a.



THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE

2 An act to regulate the business of providing deferred  
3 presentment service transactions; to require the licensing of  
4 providers of deferred presentment service transactions; **to**  
5 **authorize licensed providers of deferred presentment service**  
6 **transactions to make certain small loans;** to prescribe powers and  
7 duties of certain state agencies and officials; and to prescribe  
8 penalties and provide remedies.

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

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

13 (b) "Borrower" means a customer who enters into a small loan  
14 under section 33.

15 (c) ~~(b)~~ "Check" means a draft that is payable on demand and  
16 drawn on a bank, savings bank, savings and loan association, or  
17 credit union. Check includes any negotiable instrument that  
18 represents evidence of an obligation to pay even if it is described  
19 on its face by another term.

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

21 (i) In connection with a small loan, that the loan is fully  
22 paid or satisfied.

23 (ii) In connection with a deferred presentment service  
24 transaction, ~~means~~ that 1 of the following has occurred concerning  
25 each of the customer's checks that is the basis of the deferred  
26 presentment service transaction:

27 (A) ~~(i)~~ The check is redeemed by the customer by payment to the  
28 licensee of the face amount of the check in cash or payment from a



1 debit card that meets the requirements of section 35(11).

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

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

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

8 (E) ~~(v)~~—The check is collected by means of a repayment plan  
9 agreed on by the customer and the licensee or as the result of  
10 credit counseling where the licensee is paid the amount agreed upon  
11 by the licensee under that plan.

12 (F) ~~(vi)~~—The check is collected by the licensee under section  
13 35(9) and the licensee has evidence that the person has satisfied  
14 the obligation.

15 (e) ~~(d)~~—"Commissioner" means the director or his or her  
16 authorized representative.

17 (f) ~~(e)~~—"Customer" means **an-1 of the following, as applicable:**

18 (i) **An individual who requests information about the**  
19 **availability of, or applies for, a small loan or a borrower who**  
20 **enters into a small loan agreement with a licensee.**

21 (ii) **An individual who ~~inquires into~~ requests information about**  
22 **the availability of or applies for a deferred presentment service**  
23 **transaction or a drawer who enters into a deferred presentment**  
24 **service transaction.**

25 (g) ~~(f)~~—"Database provider" means 1 of the following:

26 (i) A third party provider selected by the director under  
27 section 22 to operate the statewide database described in that  
28 section.



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

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

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

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

(i) ~~(h)~~—"Department" means the department of insurance and financial services.

(j) ~~(i)~~—"Director" means the director of the department or his or her authorized representative.

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

(l) ~~(k)~~—"Drawer" means a customer who enters into a deferred presentment service transaction with a licensee.

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

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

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



1        **(p) ~~(e)~~ "Maturity date" means the 1 of the following, as**  
2 **applicable:**

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

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

8        **(q) ~~(p)~~ "Office" or "office of financial and insurance**  
9 **services" means the department.**

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

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

18       **(t) With respect to an existing small loan, "renewal" means**  
19 **renewing, repaying, refinancing, or consolidating the existing**  
20 **small loan with the proceeds of either of the following:**

21       **(i) Another small loan.**

22       **(ii) A deferred presentment service transaction.**

23       **(u) Subject to subsection (3), "small loan" means a loan made**  
24 **by a licensee that meets all of the following:**

25       **(i) The loan is made to 1 or more individuals for personal,**  
26 **family, or household use.**

27       **(ii) The principal amount of the loan does not exceed**  
28 **\$2,500.00.**

29       **(iii) The maturity date for the loan is not fewer than 90 days**



1 after the date of the transaction.

2 (iv) The loan is unsecured and payable in installments.

3 (2) Deferred presentment service transaction does not include  
 4 a delay in presentment of a loan repayment check, at the request of  
 5 the borrower, by a person that is licensed or registered under ~~the~~  
 6 ~~consumer financial services act, 1988 PA 161, MCL 487.2051 to~~  
 7 ~~487.2072, the regulatory loan act, 1939 PA 21, MCL 493.1 to 493.24,~~  
 8 ~~the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81,~~  
 9 ~~the motor vehicle sales finance act, 1950 (Ex Sess) PA 27, MCL~~  
 10 ~~492.101 to 492.141, 1984 PA 379, MCL 493.101 to 493.114, the money~~  
 11 ~~transmission services act, 2006 PA 250, MCL 487.1001 to 487.1047,~~  
 12 ~~or the mortgage brokers, lenders, and servicers licensing act, 1987~~  
 13 ~~PA 173, MCL 445.1651 to 445.1684.~~ **a financial licensing act.**

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

18 Sec. 11. (1) Subject to subsection (2), a person shall not  
 19 engage in the business of providing deferred presentment service  
 20 transactions after June 1, 2006 without a license under this act. A  
 21 separate license is required for each location from which the  
 22 business of providing deferred presentment service transactions **or**  
 23 **small loans** is conducted.

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

28 (3) By January 1, 2006, the commissioner by administrative  
 29 bulletin, order, or rule shall establish an application process and



1 an application timeline for license applications under this act.

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

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

7 (b) The commissioner acts on the person's complete  
8 application.

9 (5) **Within 30 days after the effective date of the amendatory**  
10 **act that added section 31a, the commissioner by administrative**  
11 **bulletin, order, or rule shall make any revisions to the**  
12 **application process and timeline described in subsection (3) that**  
13 **the commissioner determines are necessary to reflect the authority**  
14 **of licensees to engage in the business of providing small loans.**

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

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

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

29 (c) If the applicant will not operate a physical business



1 location in this state, or if in addition to the location described  
2 in subdivision (a) the applicant will make deferred presentment  
3 service transactions **or small loans** by other means, a detailed  
4 description of the manner in which deferred presentment service  
5 transactions **or small loans** will be offered to customers in this  
6 state.

7 (d) Any other information the commissioner considers necessary  
8 under this act.

9 (2) An applicant shall include an application fee in an amount  
10 determined by the commissioner with the application described in  
11 subsection (1).

12 Sec. 15. (1) After the commissioner receives a completed  
13 license application, the commissioner shall investigate to  
14 determine whether the requirements of this act are satisfied. If  
15 the commissioner finds that the requirements of this act are  
16 satisfied, the commissioner shall issue to the applicant a license  
17 to engage in deferred presentment service transactions **and make**  
18 **small loans**.

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

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

23 (2) The prior written approval of the commissioner is required  
24 for the continued operation of a licensee if there is a change in  
25 control of that licensee. The commissioner may require information  
26 considered necessary to determine whether a new application is  
27 required. The person that requests the approval shall pay the cost  
28 incurred by the commissioner in investigating the change of control  
29 request.





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

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

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

14 (4) A licensee shall comply with any request for information  
15 or documentation made by the commissioner under this act and shall  
16 comply with any reasonable written time deadlines imposed by the  
17 commissioner on that request.

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

20 (a) For a corporation, direct or indirect ownership of, or the  
21 right to control, 10% or more of the voting shares of the  
22 corporation, or the ability of a person to elect a majority of the  
23 directors or otherwise effect a change in policy.

24 (b) For any entity other than a corporation, the ability to  
25 change the principals of the organization, whether active or  
26 passive.

27 Sec. 22. (1) On or before December 31, 2006, the commissioner  
28 shall develop, implement, and maintain a statewide, common database  
29 that has real-time access through an internet connection, is



1 accessible at all time to licensees, and to the commissioner for  
2 purposes of subsections (10) and (11), and meets the requirements  
3 of this section. Before the commissioner determines that the  
4 database is fully operational for the purposes of this act, for at  
5 least 30 days the database provider shall operate a pilot program  
6 of the database to test all of the processes of the database. The  
7 database provider shall make the pilot program available to all  
8 applicants and licensees. During the 30-day period that begins on  
9 the date the commissioner determines that the database is fully  
10 operational, the commissioner shall not approve the imposition of  
11 any database verification fees under section 34(5). **Within 30 days**  
12 **after the effective date of the amendatory act that added section**  
13 **31a, the commissioner shall implement any changes to the database**  
14 **that the commissioner determines are necessary to include small**  
15 **loans in the database for the purposes of this act.**

16 (2) The commissioner may operate the database described in  
17 subsection (1) or may select and contract with a single third party  
18 provider to operate the database. If the commissioner contracts  
19 with a third party provider for the operation of the database, all  
20 of the following apply:

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

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

27 (c) In selecting a third party provider to act as the database  
28 provider, the commissioner shall give strong consideration to the  
29 third party provider's ability to prevent fraud, abuse, and other

1 unlawful activity associated with deferred presentment service  
2 transactions **or small loans** and provide additional tools for the  
3 administration and enforcement of this act.

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

7 (e) If the third party provider violates this section, the  
8 commissioner shall terminate the contract and the third party  
9 provider is barred from becoming a party to any other state  
10 contracts.

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

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

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

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

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



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

5 (4) While operating the database, the database provider shall  
6 do all of the following:

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

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

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

15 (d) Provide accurate and secure receipt, transmission, and  
16 storage of customer data.

17 (e) Meet the requirements of this act.

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

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



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

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



1 database in accordance with its approved plan, the commissioner  
2 shall immediately close or instruct the database provider to  
3 immediately close all remaining open transactions **or loans** of that  
4 licensee.

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

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

24 (10) The commissioner may access the database provided under  
25 subsection (1) only for purposes of an investigation of,  
26 examination of, or enforcement action concerning, an individual  
27 database provider, licensee, customer, or other person. The  
28 commissioner and any employees of the commissioner, the office, or  
29 this state shall not obtain or access a customer's ~~social security~~



1 **Social Security** number, driver license number, or other state-  
2 issued identification number in the database except as provided in  
3 this subsection. An individual who violates this subsection is  
4 guilty of a misdemeanor punishable by imprisonment for not more  
5 than 93 days or a fine of not more than \$1,000.00, or both, and if  
6 convicted, an individual who violates this subsection shall be  
7 dismissed from office or discharged from employment.

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

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

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

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

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

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

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

28 Sec. 31. (1) A licensee shall post prominently in an area  
29 designed to be seen by the customer before he or she enters into a



1 deferred presentment service transaction the following notice in at  
2 least 36-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 a 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 small loan**  
12 **agreement** in effect with any other person who provides this  
13 service.

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

17 5. We will pay the proceeds of a **deferred presentment service**  
18 transaction to you by check, by money order, or in cash, as you  
19 request.

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

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

29 8. State law prohibits us from using any criminal process to





1 collect on ~~an~~ **a deferred presentment service** agreement.

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

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

23 (2) A licensee shall post prominently in an area designed to  
24 be seen by the customer before he or she enters into a deferred  
25 presentment service transaction a schedule of all fees and charges  
26 imposed for deferred presentment service transactions in at least  
27 36-point type.

28 **Sec. 31a. (1) A licensee shall post prominently in an area**  
29 **designed to be seen by the customer before he or she enters into a**



1 small loan agreement the following notice in at least 36-point  
2 type:

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

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

11 3. We will pay the proceeds of a small loan to you by check,  
12 by money order, or in cash, as you request.

13 4. State law prohibits us from extending a small loan  
14 agreement for a fee. You have to pay any other deferred presentment  
15 service agreement or small loan agreement in full before obtaining  
16 additional money from us.

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

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

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

28 Sec. 32. (1) A licensee shall document a deferred presentment  
29 service transaction by entering into a written deferred presentment



1 service agreement signed by both the customer and the licensee.

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

4 (a) The name of the customer.

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

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

10 (d) The date of the transaction.

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

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

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

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

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

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

24 (k) The maturity date.

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

28 (m) A description of the process a drawer may use to file a  
29 complaint against the licensee.



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

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

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

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

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

15 5. We will pay the proceeds of this transaction to you by  
16 check, by money order, or in cash, as you request.

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

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

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

27 9. State law entitles you to information regarding filing a  
28 complaint against us if you believe that we have violated the law.  
29 If you feel we are acting unlawfully, you should call the ~~Office of~~



~~Financial and Insurance Services~~ **Department of Insurance and  
Financial Services** toll-free at 1-877-999-6442.

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

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

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

(b) Provides that an arbitration proceeding shall be held within 10 miles of the drawer's address contained in the deferred presentment service transaction agreement unless the drawer consents to another location after an arbitrable dispute occurs.

(c) Provides that an arbitration proceeding shall be conducted by a neutral arbitrator who was not and is not currently being paid



1 by the licensee and who has no financial interest in a party to the  
2 arbitration.

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

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

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

13 (a) The name of the customer.

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

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

18 (d) The date of the transaction.

19 (e) The amount of the small loan.

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

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

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

25 (i) A provision that allows the borrower to prepay in full the  
26 unpaid balance of the small loan at any time without any additional  
27 interest, fee, or penalty.

28 (j) The maturity date.

29 (k) A description of the process a borrower may use to file a



1 complaint against the licensee.

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

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

8 2. We must immediately give you a copy of your signed loan  
9 agreement.

10 3. We will pay the proceeds of this transaction to you by  
11 check, by money order, or in cash, as you request.

12 4. State law entitles you to the right to cancel this  
13 agreement and receive a refund of the fee. To do this, you must  
14 notify us and return the money you receive today by the time this  
15 office closes tomorrow or on our next business day if we are not  
16 open tomorrow.

17 5. State law prohibits us from renewing this loan for a fee.  
18 You have to pay a small loan agreement in full before obtaining  
19 additional money from us.

20 6. State law prohibits us from using any criminal process to  
21 collect on this agreement.

22 7. State law entitles you to information regarding filing a  
23 complaint against us if you believe that we have violated the law.  
24 If you feel we are acting unlawfully, you should call the  
25 Department of Insurance and Financial Services toll-free at 1-877-  
26 999-6442."

27 (3) A licensee may include an arbitration provision in a small  
28 loan agreement if the arbitration provision meets all of the  
29 following:



1 (a) Provides that the licensee agree to pay any costs of the  
2 arbitration.

3 (b) Requires that the arbitration proceeding be held at a  
4 location within 10 miles of the borrower's address contained in the  
5 small loan agreement unless the borrower consents to another  
6 location after an arbitrable dispute occurs.

7 (c) Requires that a neutral arbitrator who was not and is not  
8 currently being paid by the licensee and who has no financial  
9 interest in a party to the arbitration conduct the arbitration  
10 proceeding.

11 (d) Requires that the arbitrator provide the borrower with all  
12 the substantive rights that the borrower would have if the  
13 borrower's claim were asserted in a court proceeding and does not  
14 limit any other claim or defense the borrower has concerning the  
15 claim.

16 Sec. 33. (1) A licensee may enter into 1 deferred presentment  
17 service transaction with a customer for any amount up to \$600.00.  
18 All of the following apply to a deferred presentment service  
19 transaction:

20 (a) A licensee may charge the customer a service fee for each  
21 deferred presentment service transaction. A service fee is earned  
22 by the licensee on the date of the transaction and is not interest.

23 (b) A licensee may charge both of the following as part of the  
24 service fee, as applicable:

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

27 (A) ~~(i)~~—Fifteen percent of the first \$100.00 of the deferred  
28 presentment service transaction.

29 (B) ~~(ii)~~—Fourteen percent of the second \$100.00 of the deferred





1 presentment service transaction.

2 (C) ~~(iii)~~ Thirteen percent of the third \$100.00 of the deferred  
3 presentment service transaction.

4 (D) ~~(iv)~~ Twelve percent of the fourth \$100.00 of the deferred  
5 presentment service transaction.

6 (E) ~~(v)~~ Eleven percent of the fifth \$100.00 of the deferred  
7 presentment service transaction.

8 (F) ~~(vi)~~ Eleven percent of the sixth \$100.00 of the deferred  
9 presentment service transaction.

10 (ii) ~~(b)~~ The amount of any database verification fee allowed  
11 under section 34(5).

12 (2) A licensee may enter into 1 small loan transaction with a  
13 customer for any amount up to \$2,500.00. All of the following apply  
14 to a small loan transaction:

15 (a) A licensee may charge a customer a service fee for each  
16 small loan transaction. A licensee may charge both of the following  
17 as part of the service fee, as applicable:

18 (i) Eleven percent of the amount of the small loan, which the  
19 licensee may charge as a daily blended rate per periodic  
20 installment.

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

23 (b) A licensee shall not charge a prepayment penalty to the  
24 borrower for early payment.

25 (3) ~~(2)~~ A licensee shall not enter into a deferred presentment  
26 service transaction **or small loan transaction** with a customer if  
27 the customer has an open deferred presentment service transaction  
28 **or small loan transaction** with the licensee or has more than 1 open  
29 deferred presentment service transaction **or small loan transaction**



1 with any other licensee, and shall verify whether the customer has  
 2 an open deferred presentment service transaction **or small loan**  
 3 **transaction** with the licensee or has more than 1 open deferred  
 4 presentment service transaction **or small loan transaction** with any  
 5 other licensee by complying with section 34.

6 (4) A licensee shall comply with the requirements of 12 CFR  
 7 part 205 if the licensee accepts an authorization to make  
 8 electronic payments from the customer's or borrower's account in  
 9 connection with a deferred presentment service transaction or small  
 10 loan. A licensee shall comply with the requirements of 12 CFR part  
 11 1041 applicable to covered loans in making a small loan or entering  
 12 into a small loan transaction.

13 (5) ~~(3)~~—At the time of entering into a deferred presentment  
 14 service transaction, a licensee shall do all of the following:

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

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

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

23 b. At any time before signing a new deferred presentment  
 24 service agreement **or small loan agreement** with us, notify us in  
 25 writing of the violation. Your written notice must state the  
 26 violation and provide supporting documents or other evidence of the  
 27 violation.

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



3. 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 5 times the amount of the fee we charged you under the agreement but not less than \$15.00 or more than the face amount of your check. You may also pursue an action for your actual damages against us.

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

5. 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~~ **Department of Insurance and Financial** Services. The ~~Office~~ **Department** 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~~ **Department** can order us to pay civil fines or take away our right to do business. To do so, contact the ~~Office of Financial and Insurance~~ **Department of Insurance and Financial** Services toll-free at 1-877-999-6442."

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

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

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

(a) Charge interest under the agreement.



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

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

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

7 (e) Except as provided in this act, charge or collect any  
8 other fees for a deferred presentment service transaction.

9 (7) ~~(5)~~—A licensee shall not refuse to provide a deferred  
10 presentment service transaction to a customer solely because the  
11 customer has exercised his or her rights under this act.

12 (8) ~~(6)~~—Each licensee shall post a sign, printed in bold  
13 faced, 36-point type, in a conspicuous location at each customer  
14 service window, station, or desk at each place of business, that  
15 states the following:

16 "Under Michigan law, you are entitled to receive the proceeds  
17 of this transaction in cash. If you request the proceeds in a check  
18 or money order, you may be charged additional check cashing or  
19 other processing fees by others for cashing the check or money  
20 order.".

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

24 (a) If the commissioner has not implemented a database under  
25 section 22 or the database described in **that** section ~~22~~—is not  
26 fully operational, as determined by the commissioner, verifying  
27 that the customer does not have an open deferred presentment  
28 service transaction **or small loan** with the licensee. The licensee  
29 shall maintain a database of all of the licensee's **deferred**

1 **presentment service** transactions **and small loans** at all of its  
2 locations and search that database to meet its obligation under  
3 this subdivision.

4 (b) If the commissioner has implemented a database under  
5 section 22 and the database described in that section is fully  
6 operational, as determined by the commissioner, accessing the  
7 database and verifying that the customer does not have an  
8 outstanding deferred presentment service transaction **or small loan**  
9 with the licensee and does not have more than 1 open deferred  
10 presentment service transaction **or small loan** that has not been  
11 fully repaid with any other licensee.

12 (2) If the commissioner has not implemented a database under  
13 section 22, ~~the~~ the database described in that section is not fully  
14 operational, as determined by the commissioner, ~~or~~ the licensee  
15 is unable to access the database and the alternative mechanism for  
16 verification described in subsection (3) is also unavailable, as  
17 determined by the commissioner, a licensee may rely upon the  
18 written verification of the borrower in a statement provided in  
19 substantially the following form in at least 12-point type:

20 "I DO NOT HAVE ANY OUTSTANDING DEFERRED PRESENTMENT SERVICE  
21 TRANSACTIONS **OR SMALL LOANS** WITH THIS LICENSEE AND I DO NOT HAVE  
22 MORE THAN ONE OUTSTANDING DEFERRED PRESENTMENT SERVICE TRANSACTION  
23 **OR SMALL LOAN** WITH ANY OTHER LICENSED DEFERRED PRESENTMENT SERVICE  
24 PROVIDER IN THIS STATE."

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

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

3 (5) If approved by the commissioner, the database provider may  
4 impose a database verification fee for the actual costs of  
5 entering, accessing, and verifying data in the database described  
6 in section 22 to verify that a customer does not have any other  
7 open deferred presentment service transactions **or small loans** with  
8 the licensee and does not have more than 1 open deferred  
9 presentment service transaction **or small loan** with any other  
10 licensees. A database verification fee is payable to the database  
11 provider in a manner prescribed by the commissioner. A licensee may  
12 charge a customer all or part of the database verification fee  
13 under section 33(1)(b) **or (2)(a)** but may not charge a customer any  
14 other fee except as authorized in section 33(1), **33(2)**, or 35(2).

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

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



1 (8) When a deferred presentment service transaction **or small**  
2 **loan** is closed, the licensee shall designate the transaction **or**  
3 **loan** as closed and immediately notify the database provider, but in  
4 no event after 11:59 p.m. on the day the transaction is closed. The  
5 commissioner shall assess an administrative fine of \$100.00 for  
6 each day that the licensee fails to notify the database provider  
7 that the transaction **or loan** has been closed. It is a defense to  
8 the assessment of an administrative fine that notifying the  
9 database provider was not possible due to temporary technical  
10 problems with the database or to circumstances beyond the  
11 licensee's control.

12 Sec. 35. (1) A licensee shall not renew a deferred presentment  
13 service agreement **or small loan agreement**. A licensee may extend a  
14 deferred presentment service agreement **or small loan agreement** only  
15 if the licensee does not charge a fee in connection with the  
16 extended transaction **or loan**. A licensee ~~who~~**that** extends an  
17 agreement under this subsection shall not create a balance owed  
18 above the amount owed on the original agreement.

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

24 (a) The drawer shall request the repayment plan, either orally  
25 or in writing, within 30 days after the maturity date of the  
26 deferred presentment service transaction.

27 (b) The drawer shall repay the transaction in 3 equal  
28 installments with 1 installment due on each of the next 3 dates on  
29 which the drawer receives regular wages or compensation from an



1 employer or other regular source of income, pursuant to a written  
2 repayment plan agreement.

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

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

16 (3) A licensee shall advise a ~~customer-drawer~~ of the repayment  
17 option described in subsection (2) at the time he or she is  
18 eligible. If a ~~customer-drawer~~ believes he or she has been  
19 illegally denied the repayment option under this section, he or she  
20 is entitled to contact the department toll-free at 1-877-999-6442.  
21 If a customer has entered into 8 deferred presentment service  
22 transactions in any 12-month period, the database provider shall  
23 notify the licensee when the licensee submits the required customer  
24 information to the database for that ~~customer-drawer~~ that the  
25 ~~customer-drawer~~ is entitled to a repayment plan under this section.  
26 The database provider shall instruct the licensee to provide the  
27 ~~customer-drawer~~ with the following notice, in a document separate  
28 from the deferred presentment transaction agreement and in at least  
29 12-point type:





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

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

24 (5) ~~A~~ **In a deferred presentment service transaction, a**  
 25 licensee shall not present a check for payment before the maturity  
 26 date or during the term of the repayment plan. In addition to the  
 27 remedies and penalties under this act, a licensee that presents a  
 28 check for payment before the maturity date or during the term of  
 29 the repayment plan is liable for all expenses and damages caused to



1 the drawer and the drawee as a result of the violation. If a drawer  
2 has not requested a repayment plan on or before the maturity date,  
3 the licensee may redeem, present for payment, or enter the check  
4 into the check-clearing process under the terms of the original  
5 deferred presentment service transaction agreement.

6 (6) A drawer satisfies his or her obligation under a deferred  
7 presentment service agreement when the check the licensee is  
8 holding is paid by the drawee or is redeemed by the drawer by  
9 paying to the licensee an amount equal to the full amount of the  
10 check.

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

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

22 (9) If the drawer has an outstanding deferred presentment  
23 service transaction in which a check held in connection with the  
24 transaction was deposited and returned unpaid, the licensee may  
25 collect the check by means of 1 or more telephone-initiated entries  
26 if all of the following are met:

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

28 (b) Each telephone-initiated entry is a single, date-specific  
29 payment and does not authorize more than 1 payment or periodic



1 payments.

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

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

13 (11) ~~A~~**In a deferred presentment service transaction, a**  
14 licensee shall only accept a payment by debit card to redeem a  
15 check the licensee is holding if the drawer certifies to the  
16 licensee that the debit card draws funds from the same account on  
17 which the check is drawn.

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

23 Sec. 36. (1) ~~No~~**Not** later than the close of business on the  
24 day he or she signed a deferred presentment service agreement **or**  
25 **small loan agreement**, a drawer **or borrower** who believes that a  
26 licensee has violated this act may notify the licensee in person  
27 that the licensee has violated the act. The drawer **or borrower**  
28 shall identify the nature of the violation and provide documentary  
29 or other evidence of the violation at that time.



1 (2) At any time before signing a new deferred presentment  
2 service agreement **or small loan agreement** with a licensee, a drawer  
3 **or borrower** who believes that the licensee has violated this act in  
4 connection with a deferred presentment service transaction **or small**  
5 **loan** may deliver to the licensee a notice in writing that the  
6 licensee has violated the act. The drawer **or borrower** shall  
7 identify the nature of the violation and include documentary or  
8 other evidence of the violation in the notice.

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

13 (4) If the licensee determines that it has violated the law,  
14 it shall return to the drawer the check it received in the deferred  
15 presentment service transaction, **or return to the borrower any**  
16 **payments of principal and interest it received in the small loan**  
17 **transaction**, and any service fee paid by the drawer **or borrower** to  
18 the licensee. The drawer **or borrower** shall deliver to the licensee  
19 cash or a cash equivalent in an amount equal to the amount of cash  
20 the drawer **or borrower** received in the transaction. In addition,  
21 the licensee shall make restitution to the drawer **or borrower** for  
22 each violation in an amount equal to 5 times the amount of the fee  
23 charged in the deferred presentment service transaction **or small**  
24 **loan transaction**, but not less than \$15.00 or more than the face  
25 amount of the drawer's check **or the principal amount of the**  
26 **borrower's loan**. A licensee that makes restitution for a violation  
27 under this subsection may be subject to a civil action under  
28 section 53 with respect to that violation. A licensee that makes  
29 restitution for a violation under this subsection shall immediately



1 notify the commissioner of that action. The licensee shall give the  
2 commissioner detailed information about the terms of the deferred  
3 presentment service transaction **or small loan transaction** and shall  
4 provide other information requested by the commissioner.

5 (5) If the licensee determines that it did not violate the  
6 law, the licensee shall immediately notify the commissioner, and  
7 the drawer **or borrower**, of that determination. The licensee shall  
8 give the commissioner detailed information about the terms of the  
9 deferred presentment service transaction **or small loan** and shall  
10 provide other information requested by the commissioner. The  
11 licensee shall include in the notification to the drawer **or**  
12 **borrower** that the drawer **or borrower** has the right to file a  
13 written complaint with the ~~office-department~~ if he or she does not  
14 agree with the determination that the licensee did not violate the  
15 law. The licensee shall include in the notice detailed information  
16 on how the drawer **or borrower** can contact the ~~office-department~~ to  
17 obtain a complaint form.

18 (6) A drawer **or borrower** who receives a notice of  
19 determination by the licensee that it did not violate the law may  
20 file a written complaint with the ~~office-department~~ on a form  
21 prescribed by the commissioner. The drawer **or borrower** shall  
22 include with the complaint documentary or other evidence of the  
23 violation.

24 (7) ~~If~~**In a deferred presentment service transaction, if** the  
25 licensee has otherwise complied with this section and has  
26 determined that it did not violate the law, the licensee may  
27 present the drawer's check for payment on or after the maturity  
28 date. If a check presented for payment under this subsection is not  
29 honored, and the licensee is not in violation of this act in



1 connection with the deferred presentment service transaction, the  
2 licensee may initiate any lawful collection effort.

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

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

17 Sec. 45. (1) A customer may file a written complaint with the  
18 ~~office~~**department** on a form prescribed by the commissioner  
19 regarding a licensee. The customer shall include with the complaint  
20 documentary or other evidence of the violation or activities of the  
21 licensee. The commissioner shall investigate a complaint filed by a  
22 customer under this subsection.

23 (2) The commissioner may investigate or conduct examinations  
24 of a licensee and conduct hearings as the commissioner considers  
25 necessary to determine whether a licensee or any other person has  
26 violated this act, or whether a licensee has conducted business in  
27 a manner that justifies suspension or forfeiture of its authority  
28 to engage in the business of providing deferred presentment service  
29 transactions **and small loans** in this state.



1           (3) The commissioner may subpoena witnesses and documents,  
2 papers, books, records, and other evidence in any manner over which  
3 the commissioner has jurisdiction, control, or supervision. The  
4 commissioner may administer oaths to any person whose testimony is  
5 required. If a person fails to comply with a subpoena issued by the  
6 commissioner or to testify with respect to any matter concerning  
7 which the person may be lawfully questioned, the commissioner may  
8 petition the circuit court for Ingham ~~county~~ **County** to issue an  
9 order requiring the person to attend, give testimony, or produce  
10 evidence.

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

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

