

By Senator Campbell

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A bill to be entitled
An act relating to deferred presentment of
checks; creating part IV of chapter 560, F.S.;
defining the terms "deferred presentment,"
"maker," "registrant," "renewal," and "service
fee"; providing conditions for engaging in
deferred presentment transactions; providing an
effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Part IV of chapter 560, Florida Statutes,
consisting of sections 560.401, 560.402, and 560.403, Florida
Statutes, is created to read:

560.401 Short title.--This part may be cited as the
"Deferred Presentment Act."

560.402 Definitions.--In addition to the definitions
provided in ss. 560.103 and 560.301, as used in this part, the
term:

(1) "Deferred presentment" means a transaction in
which a check is cashed by a person licensed under s. 560.301
and, by mutual agreement between the registrant and the maker
of the check, its presentment or negotiation is deferred for a
period of time not to exceed 31 days. A deferred presentment
transaction that complies with the rules contained in s.
560.403 may not be construed to be a loan under state law.

(2) "Maker" means any person who writes a personal
check and upon whose account the check is drawn.

(3) "Registrant" means a person registered under s.
560.301.

1 (4) "Renewal" means the termination of an existing
2 deferred presentment agreement solely by the payment of fees
3 then due the licensee and the substitution of a new check
4 drawn by the maker pursuant to a new deferred presentment
5 agreement.

6 (5) "Service fee" means the fee authorized for the
7 deferral of the presentation of a check pursuant to this part.
8 This fee does not constitute interest for any purpose.

9 560.403 Transactions.--A person may engage in deferred
10 presentment transactions, subject to the following:

11 (1) A person may not engage in deferred presentment
12 transactions without first obtaining registration under the
13 provisions of s. 560.301.

14 (2) A registrant may not charge fees in excess of 20
15 percent of the amount paid to the maker of the check whose
16 presentment or negotiation is deferred.

17 (3) A deferred presentment agreement may not be for a
18 term in excess of 31 days.

19 (4) Makers who write a check for a deferred
20 presentment transaction on an account that was closed on the
21 date of the transaction or that is closed before the agreed
22 upon negotiation date of the deferred presentment, are subject
23 to all civil and criminal penalties available at law. If a
24 check is returned to a registrant from a payer financial
25 institution due to insufficient funds or a closed account or
26 stop payment order, the registrant may pursue all legally
27 available civil means to collect the check including, without
28 limitation, the imposition of all charges imposed on the
29 registrant by the payer financial institution. Except as
30 otherwise provided in this part, an individual who issues a

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1 personal check to a licensee under a deferred presentment
2 agreement is not subject to criminal penalty.

3 (5) Proceeds to the maker in a deferred presentment
4 transaction may be made in the form of the registrant's
5 business check or money order if the person is licensed under
6 s. 560.200. However, no additional fee may be charged by a
7 registrant for cashing the registrant's check.

8 (6) A registrant may not renew any deferred
9 presentment transaction more than two consecutive times, after
10 which the deferred presentment check must be paid in cash or
11 its equivalent by the maker or deposited by the registrant.
12 Once the issuer of a check has completed a deferred
13 presentment transaction with a licensee, he or she may enter
14 into a new agreement for deferred presentment services with
15 the licensee. A transaction is completed when a check is
16 presented for payment, is deposited, or is redeemed by the
17 issuer by payment in full in cash to the licensee.

18 (7) The face amount of a check taken for deferred
19 presentment may not exceed \$500, exclusive of the fees allowed
20 by this section.

21 (8) Each deferred presentment transaction must be
22 documented by a written agreement. The written agreement must
23 contain the name or trade name of the registrant, the
24 transaction date, the amount of the check, and a statement of
25 the total amount of fees charged, expressed both as a dollar
26 amount and its effective annual percentage rate. The written
27 agreement must authorize the registrant to defer presentment
28 or negotiation of the check until after a specific date, not
29 later than 31 days from the date the check is accepted by the
30 registrant.
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