

By the Committee on Banking and Insurance; and Senator
Campbell

311-2028-99

1 A bill to be entitled
2 An act relating to the Money Transmitters'
3 Code; amending s. 560.103, F.S.; providing for
4 the code to include part IV of ch. 560, F.S.,
5 as created by the act; redefining the term
6 "money transmitter"; amending s. 560.114, F.S.;
7 providing additional grounds for disciplinary
8 action by the Department of Banking and
9 Finance; providing additional grounds for
10 denial of registration as a money transmitter;
11 providing for the continuation of
12 administrative charges following expiration or
13 surrender of a registration; amending s.
14 560.125, F.S.; prohibiting an unregistered
15 person from advertising as a money transmitter;
16 amending s. 560.129, F.S.; deleting provisions
17 restricting access to certain hearings,
18 proceedings, and documents; deleting provisions
19 exempting emergency orders from the public
20 records law; amending s. 560.207, F.S.;
21 revising requirements for the registration
22 renewal fee and application; creating part IV
23 of chapter 560, F.S., consisting of ss.
24 560.400-560.408, F.S.; providing a short title;
25 defining terms; prohibiting a person from
26 engaging in the business of deferred
27 presentment transactions unless the person is
28 registered under the code and pays certain
29 fees; providing for registration applications;
30 providing for registration renewal; providing
31 requirements for deferred presentment

1 transactions; providing disclosure
2 requirements; providing certain limitations on
3 the presentment, deposit, and redemption of a
4 drawer's check; prohibiting a deferred
5 presentment provider from requiring a drawer to
6 redeem a check before the end of the deferral
7 period; prohibiting certain additional acts or
8 practices; providing that a person who writes a
9 check on a closed account is subject to civil
10 and criminal penalties; limiting the amount of
11 damages a deferred presentment provider may
12 collect on a returned check; requiring a
13 deferred presentment provider to maintain
14 certain books and records; providing an
15 appropriation; providing an effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Subsections (4) and (10) of section
20 560.103, Florida Statutes, are amended to read:

21 560.103 Definitions.--As used in the code, unless the
22 context otherwise requires:

23 (4) "Code" means the "Money Transmitters' Code,"
24 consisting of:

25 (a) Part I of this chapter, relating to money
26 transmitters generally.

27 (b) Part II of this chapter, relating to payment
28 instruments and funds transmission.

29 (c) Part III of this chapter, relating to check
30 cashing and foreign currency exchange.

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1 (d) Part IV of this chapter, relating to deferred
2 presentment.

3 (10) "Money transmitter" means any person located in
4 or doing business in this state who acts as a payment
5 instrument seller, foreign currency exchanger, check casher,
6 ~~or~~ funds transmitter, or deferred presentment provider.

7 Section 2. Paragraph (a) of subsection (1) and
8 paragraph (d) of subsection (2) of section 560.114, Florida
9 Statutes, are amended, paragraphs (l) and (m) are added to
10 subsection (1) of that section, and subsection (4) is added to
11 that section, to read:

12 560.114 Disciplinary actions.--

13 (1) The following actions by a money transmitter or
14 money transmitter-affiliated party are violations of the code
15 and constitute grounds for the issuance of a cease and desist
16 order, the issuance of a removal order, the denial of a
17 registration application or the suspension or revocation of
18 any registration previously issued pursuant to the code, or
19 the taking of any other action within the authority of the
20 department pursuant to the code:

21 (a) ~~Knowing~~ Failure to comply with any provision of
22 the code, any rule or order adopted pursuant thereto, or any
23 written agreement entered into with the department.

24 (l) Failure to pay any fee, charge, or fine imposed or
25 assessed pursuant to the code or rules adopted under the code.

26 (m) Engaging in or advertising engagement in the
27 business of a money transmitter without a registration, unless
28 exempt from the registration requirements of the code.

29 (2) In addition to the acts specified in subsection
30 (1), the following acts are grounds for denial of registration
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1 or for revocation, suspension, or restriction of registration
2 previously granted:

3 (d) Pleading nolo contendere to, or having been
4 convicted of or found guilty of, or having pleaded guilty or
5 nolo contendere to, a crime involving fraud, or dishonest
6 dealing, or any act of moral turpitude, regardless of whether
7 adjudication is withheld.

8 (4) If any registration expires or is surrendered
9 while administrative charges are pending against a money
10 transmitter, the proceedings involving such charges shall
11 continue as if the money transmitter's registration were still
12 in effect.

13 Section 3. Subsection (1) of section 560.125, Florida
14 Statutes, is amended to read:

15 560.125 Money transmitter business by unauthorized
16 persons.--

17 (1) A person other than a registered money transmitter
18 or authorized vendor may not engage in, or advertise that he
19 or she engages in, the business of a money transmitter in this
20 state unless the person is exempted from the registration
21 requirements of the code.

22 Section 4. Section 560.129, Florida Statutes, is
23 amended to read:

24 560.129 Confidentiality.--

25 (1) For purposes of this section, the definitions
26 contained in s. 560.103, as created by chapter 94-238, Laws of
27 Florida, and chapter 94-354, Laws of Florida, apply.

28 (2) ~~RESTRICTED ACCESS TO CERTAIN HEARINGS,~~
29 ~~PROCEEDINGS, AND RELATED DOCUMENTS.--~~

30 (a) ~~The hearings and proceedings conducted under the~~
31 ~~code pursuant to this part shall be closed and exempt from the~~

1 ~~provisions of s. 286.011 and s. 24(b), Art. I of the State~~
2 ~~Constitution, and documents related to such hearings and~~
3 ~~proceedings shall be confidential and exempt from the~~
4 ~~provisions of s. 119.07(1) and s. 24(a), Art. I of the State~~
5 ~~Constitution.~~

6 **(b)** Orders of courts or of administrative law judges
7 for the production of confidential records or information
8 shall provide for inspection in camera by the court or the
9 administrative law judge and, after the court or
10 administrative law judge has made a determination that the
11 documents requested are relevant or would likely lead to the
12 discovery of admissible evidence, the documents shall be
13 subject to further orders by the court or the administrative
14 law judge to protect the confidentiality thereof. Any order
15 directing the release of information shall be immediately
16 reviewable, and a petition by the department for review of
17 such order shall automatically stay further proceedings in the
18 trial court or the administrative hearing until the
19 disposition of such petition by the reviewing court. If any
20 other party files such a petition for review, it will operate
21 as a stay of such proceedings only upon order of the reviewing
22 court.

23 ~~(3) Any emergency order entered under s. 560.112(6) is~~
24 ~~confidential and exempt from the provisions of s. 119.07(1)~~
25 ~~and s. 24(a), Art. I of the State Constitution, until the~~
26 ~~emergency order is made permanent, unless the department finds~~
27 ~~that such confidentiality will result in substantial risk of~~
28 ~~financial loss to the public.~~

29 (3)~~(4)~~ Except for such portions of this section which
30 are otherwise public record, all records and information
31 relating to an investigation by the department under the code

1 are confidential and exempt from the provisions of s.
2 119.07(1) and s. 24(a), Art. I of the State Constitution,
3 until such investigation is completed or ceases to be active.
4 For purposes of this subsection, an investigation is
5 considered active while such investigation is being conducted
6 by the department with a reasonable, good faith belief that it
7 may lead to the filing of administrative, civil, or criminal
8 proceedings. An investigation does not cease to be active if
9 the department is proceeding with reasonable dispatch, and
10 there is a good faith belief that action may be initiated by
11 the department or other regulatory, administrative, or law
12 enforcement agency. After an investigation is completed or
13 ceases to be active, portions of such records relating to the
14 investigation shall be confidential and exempt from the
15 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
16 Constitution, to the extent that disclosure would:
17 (a) Jeopardize the integrity of another active
18 investigation;
19 (b) Impair the safety and soundness of a money
20 transmitter or authorized vendor;
21 (c) Reveal personal financial information;
22 (d) Reveal the identity of a confidential source;
23 (e) Defame or cause unwarranted damage to the good
24 name or reputation, or jeopardize the safety, of a person; or
25 (f) Reveal investigative techniques or procedures.
26 (4)~~(5)~~ Except as otherwise provided in s. 560.121, and
27 except for such portions that are public record, reports of
28 examinations, operations, or conditions, including working
29 papers, or portions thereof, prepared by, or for the use of,
30 the department or any appropriate regulatory agency are
31 confidential and exempt from the provisions of s. 119.07(1)

1 and s. 24(a), Art. I of the State Constitution. However, such
2 reports or papers or portions thereof may be released to:

3 (a) The money transmitter under examination;

4 (b) Proposed purchasers if necessary to protect the
5 continued financial viability of the money transmitter;
6 however, the department shall notify the money transmitter
7 prior to releasing such documents;

8 (c) Persons proposing in good faith to acquire a
9 controlling interest in or to merge with the money
10 transmitter; however, the department shall obtain permission
11 from the money transmitter prior to releasing such documents;

12 (d) Any responsible person, officer, director,
13 employee, attorney, auditor, or independent auditor officially
14 connected with the money transmitter, proposed purchaser, or
15 person seeking to acquire a controlling interest in or merge
16 with the money transmitter; however, the department shall
17 obtain permission from the money transmitter prior to
18 releasing such documents; or

19 (e) A bonding company, upon approval of the money
20 transmitter.

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22 Any confidential information or records obtained from the
23 department pursuant to this subsection shall be maintained as
24 confidential and exempt from the provisions of s. 119.07(1)
25 and s. 24(a), Art. I of the State Constitution.

26 (5)~~(6)~~ This section shall not prevent or restrict:

27 (a) Furnishing records or information to any
28 appropriate regulatory agency provided that such agency
29 adheres to the confidentiality provisions of the code;

30 (b) Disclosing or publishing summaries of the
31 condition of money transmitters as well as general economic

1 and similar statistics or data, provided that the identity of
2 a particular money transmitter is not disclosed and may not be
3 ascertained; or

4 (c) Reporting any suspected criminal activity, with
5 supporting documents and information, to appropriate law
6 enforcement or prosecutorial agencies.

7
8 Any confidential information or records obtained from the
9 department pursuant to this subsection shall be maintained as
10 confidential and exempt from the provisions of s. 119.07(1)
11 and s. 24(a), Art. I of the State Constitution.

12 (6)~~(7)~~ All reports and records filed with the
13 department pursuant to s. 560.123 are confidential and exempt
14 from the provisions of s. 119.07(1) and s. 24(a), Art. I of
15 the State Constitution. However, the department shall provide
16 any report filed pursuant to such section, or information
17 contained therein, to federal, state, and local law
18 enforcement and prosecutorial agencies, and to any federal or
19 state agency responsible for the regulation or supervision of
20 money transmitters.

21 (7)~~(8)~~ Confidential records and information furnished
22 pursuant to a legislative subpoena shall be kept confidential
23 by the legislative body or committee that receives the records
24 or information, except in a case involving investigation of
25 charges against a public official subject to impeachment or
26 removal, and then disclosure of such information shall be only
27 to the extent determined to be necessary by the legislative
28 body or committee.

29 (8)~~(9)~~ Examination reports, investigatory records,
30 applications, and related information compiled by the

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1 department, or photographic copies thereof, shall be retained
2 by the department for a period of at least 10 years.

3 (9)~~(10)~~ Any person who willfully discloses information
4 made confidential by this section commits a felony of the
5 third degree, punishable as provided in s. 775.082, s.
6 775.083, or s. 775.084.

7 (10)~~(11)~~ The exemptions created pursuant to
8 subsections~~(3)-(7)(1)-(11)~~ for purposes of the Money
9 Transmitters' Code in this chapter, as created by chapter
10 94-238, Laws of Florida, and chapter 94-354, Laws of Florida,
11 are exempt from the provisions of ss. 119.07(1) and 286.011
12 and s. 24(a) and (b), Art. I of the State Constitution.

13 Section 5. Subsection (2) of section 560.207, Florida
14 Statutes, is amended to read:

15 560.207 Renewal of registration; registration fee.--

16 (2) All registration renewal applications shall be
17 accompanied by a nonrefundable renewal fee not to exceed
18 \$1,000, unless such fee is waived by the department. All
19 renewal applications must be filed on or after January 1 of
20 the year in which the existing registration expires, but not
21 later than April 30 ~~before March 31~~. If the renewal
22 application is filed prior to the expiration date of an
23 existing registration, no investigation fee shall be paid in
24 connection with such renewal application. If the renewal
25 application is filed after April 30, the renewal application
26 is untimely and ~~the expiration date of an existing~~
27 ~~registration, then,~~ in addition to the \$1,000 renewal fee, the
28 renewal application must ~~shall~~ be accompanied by the a
29 nonrefundable investigation fee provided for in ~~pursuant to s.~~
30 560.205(2).
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1 Section 6. Part IV of chapter 560, Florida Statutes,
2 consisting of sections 560.400, 560.401, 560.402, 560.403,
3 560.404, 560.405, 560.406, 560.407, and 560.408, Florida
4 Statutes, is created to read:

5 560.400 Short title.--This part may be cited as the
6 "Deferred Presentment Act."

7 560.401 Definitions.--In addition to the definitions
8 provided in ss. 560.103, 560.202, and 560.302, as used in this
9 part, the term:

10 (1) "Days" mean calendar days.

11 (2) "Deferral period" means the period of time, not to
12 exceed 31 days, during which a deferred presentment provider
13 agrees to hold a drawer's check prior to presenting,
14 depositing, or redeeming it. The deferral period shall
15 commence on the date the deferred transaction agreement is
16 executed and the drawer's check is signed.

17 (3) "Deferred presentment agreement" or "agreement"
18 means the written agreement entered into between the drawer
19 and the deferred presentment provider to evidence the terms
20 and conditions of a deferred presentment transaction.

21 (4) "Deferred presentment provider" or "provider"
22 means a person who, for compensation or gain, or in the
23 expectation of compensation or gain, engages in a deferred
24 presentment transaction.

25 (5) "Deferred presentment transaction" or
26 "transaction" means providing currency or a payment instrument
27 in exchange for a person's check and agreeing to hold that
28 person's check for a period of time prior to presentment,
29 deposit, or redemption. A deferred presentment transaction
30 that complies with this part is not a loan under state law.

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1 (6) "Drawer" means a person who signs a check to be
2 held by a deferred presentment provider.

3 (7) "Extension" means the continuation of an existing
4 deferred presentment transaction whereby the deferred
5 presentment provider agrees to continue to hold, for
6 compensation or gain in excess of the service fee charged for
7 the existing transaction or in the expectation of compensation
8 or gain in excess of the service fee charged for the existing
9 transaction, the drawer's check for a period of time exceeding
10 the deferral period agreed upon for the existing transaction.

11 (8) "Renewal" means the termination of an existing
12 deferred presentment agreement solely by the payment of fees
13 then due the deferred presentment provider and the
14 substitution of a new check drawn by the drawer pursuant to a
15 new deferred presentment agreement.

16 (9) "Service fee" means the fee a deferred presentment
17 provider may charge in a deferred presentment transaction.
18 This fee may not be deemed to be interest for any purpose.

19 560.402 Requirement of registration; terms; fees.--

20 (1) A person may not engage in the business of
21 deferred presentment transactions or act as a deferred
22 presentment provider unless that person is registered under
23 part II or part III of the code and has complied with
24 subsection (2) or subsection (3).

25 (2) On or before December 1, 1999, any registrant
26 under the code who currently engages in or intends to engage
27 in deferred presentment transactions or acts as a deferred
28 presentment provider shall file with the department an amended
29 application indicating the registrant's intent to continue to
30 engage in or commence engaging in such transactions and shall
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1 remit with the amended application a nonrefundable
2 deferred-presentment-provider fee of \$500.

3 (3) Any person who is not registered, or who is exempt
4 from registration under the code, and who intends to engage in
5 the business of deferred presentment transactions or act as a
6 deferred presentment provider shall remit a nonrefundable
7 deferred-presentment-provider fee of \$500 in addition to the
8 investigation fee required for registration under parts II or
9 III, and indicate on the appropriate application his or her
10 intent to engage in the business of deferred presentment
11 transactions or act as a deferred presentment provider.

12 (4) A registrant under this part shall renew his or
13 her intent to engage in the business of deferred presentment
14 transactions or to act as a deferred presentment provider upon
15 renewing his or her registration under part II or part III,
16 and shall do so by indicating his or her intent on the renewal
17 form and by submitting a nonrefundable
18 deferred-presentment-provider renewal fee of \$1,000, in
19 addition to any fees required for renewal of registration
20 under part II or part III.

21 (5) A registrant under this part who fails to timely
22 renew his or her intent to engage in the business of deferred
23 presentment transactions or to act as a deferred presentment
24 provider shall immediately cease to engage in the business of
25 deferred presentment transactions or to act as a deferred
26 presentment provider.

27 560.403 Deferred presentment transactions.--A deferred
28 presentment provider may engage in deferred presentment
29 transactions, subject to the following:

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1 (1) Every deferred presentment transaction must be
2 evidenced by a written agreement signed by the deferred
3 presentment provider and the drawer.

4 (2) Upon receipt of the drawer's check, a deferred
5 presentment provider must immediately provide the drawer with
6 the face amount of the check, less the service fee if such a
7 fee is included in the face amount of the check.

8 (3) The deferred presentment agreement shall be
9 executed on the same day the drawer's check is signed, with
10 the agreement and the drawer's check bearing that date.

11 (4) Upon execution of the deferred presentment
12 agreement by the drawer and the deferred presentment provider,
13 the provider shall furnish the drawer with a copy of the
14 agreement.

15 (5) A deferred presentment transaction or agreement
16 may not be for a term in excess of 31 days.

17 (6) The face amount of a drawer's check may not exceed
18 \$500, exclusive of the service fee.

19 (7) A deferred presentment provider who is registered
20 only under part III of the code is limited to providing the
21 drawer with currency when engaging in a deferred presentment
22 transaction.

23 (8) A deferred presentment provider who is registered
24 under part II of the code may provide the drawer with currency
25 or a payment instrument when engaging in a deferred
26 presentment transaction, provided that:

27 (a) If the provider provides the drawer with a payment
28 instrument in the form of a nonnegotiable instrument, or a
29 check drawn on the provider's business account, the provider
30 must do so at no charge to the drawer.

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1 (b) The provider shall allow the drawer to cash,
2 present, or deposit any nonnegotiable instrument issued by the
3 provider with the provider or an affiliated provider and shall
4 allow the drawer to do so without incurring any fees or costs.

5 (c) The drawer, at the provider's discretion, shall be
6 able to cash, present, or deposit any check issued by the
7 provider with the provider or an affiliated provider. However,
8 if the provider allows a drawer to cash, present, or deposit
9 any check issued by the provider with the provider or an
10 affiliated provider, the drawer shall be allowed to do so
11 without incurring any fees or costs.

12 (9) A deferred presentment transaction is complete
13 when the deferred presentment provider or its agent presents a
14 drawer's check for payment or deposit, or the check is
15 redeemed. Once a transaction is completed, the provider may
16 enter into a new transaction with the drawer. A provider may
17 not redeem, extend, or otherwise consolidate a transaction
18 with the proceeds of another transaction made by the same
19 provider or an affiliated provider.

20 560.404 Disclosure requirements.--

21 (1) All deferred presentment agreements must contain:

22 (a) The name or trade name, address, and telephone
23 number of the deferred presentment provider.

24 (b) The name and title of the person signing the
25 agreement on behalf of the deferred presentment provider.

26 (c) The date the deferred presentment transaction was
27 made.

28 (d) The amount of the drawer's check.

29 (e) The number of days of the deferral period.

30 (f) The address and telephone number of the
31 department.

1 (g) A clear description of the drawer's payment
2 obligations under the deferred presentment transaction.

3 (h) The statement: "You cannot be prosecuted in
4 criminal court for a check written under this agreement to be
5 held by the deferred presentment provider unless the account
6 upon which the check was drawn was closed on the date you
7 entered into the transaction or is closed prior to the end of
8 the deferral period."

9 (2) A deferred presentment provider shall provide the
10 following notice in a prominent place on each deferred
11 presentment agreement in at least 10-point type:

12
13 State law prohibits deferred presentment
14 providers and affiliated providers from
15 holding, at any one time, more than two
16 outstanding checks written by you. State law
17 also prohibits deferred presentment providers
18 and affiliated providers from holding
19 outstanding checks written by you which in the
20 aggregate exceed \$1,000, exclusive of the
21 authorized service fee. If you choose to engage
22 in more than two deferred presentment
23 transactions at one time, or if the sum of such
24 transactions exceed \$1,000, exclusive of the
25 authorized service fee, you may experience
26 adverse legal and financial consequences.

27 (3) A deferred presentment provider may not include
28 any of the following provisions in any deferred transaction
29 agreement:

30 (a) A hold harmless clause.

31 (b) A confession of judgment clause.

1 (c) Any assignment of or order for payment of wages or
2 other compensation for services.

3 (d) A provision in which the drawer agrees not to
4 assert any claim or defense arising out of the agreement.

5 (e) A waiver of any provision of this part.

6 560.405 Presentment; deposit and redemption of a
7 drawer's check.--

8 (1) A deferred presentment provider may not present or
9 deposit a drawer's check before the end of the deferral
10 period.

11 (2) Before a deferred presentment provider presents or
12 deposits a drawer's check, the check must be endorsed with the
13 actual name under which the deferred presentment provider is
14 doing business.

15 (3) Notwithstanding subsection (1), a drawer may, at
16 anytime on or before the end of the deferral period, elect to
17 redeem his or her check. A deferred presentment provider may
18 not require a drawer to redeem his or her check before the end
19 of the deferral period.

20 (4) When the drawer redeems his or her check, the
21 deferred presentment provider shall return the drawer's check
22 and provide the drawer with a signed, dated receipt affirming
23 that the drawer's check has been redeemed.

24 (5) A drawer's check is redeemed when payment is made
25 to the provider for the face amount of the drawer's check,
26 plus the service charge if the service charge was not included
27 in the face amount of the check.

28 (6) A deferred presentment provider may not require a
29 drawer writing a check to redeem the check being held by the
30 provider to write more than one check in order to complete the
31 redemption.

1 560.406 Prohibited acts and practices.--It is a
2 violation of the code for a deferred presentment provider, an
3 affiliated provider, or any person to:

4 (1) Charge the drawer a service fee in excess of 15
5 percent of the amount provided to the drawer pursuant to the
6 deferred presentment transaction.

7 (2) Accept or hold an undated check or a check dated
8 other than the date recorded on the deferred presentment
9 agreement.

10 (3) Alter or delete the date recorded on any deferred
11 presentment agreement or drawer's check.

12 (4) Collect the service fee before the drawer's check
13 is presented, deposited, or redeemed.

14 (5) Engage in the renewal or extension of any deferred
15 presentment transaction.

16 (6) Hold more than two outstanding checks from any one
17 drawer at any one time.

18 (7) Hold outstanding checks from any one drawer which,
19 in the aggregate exceed \$1,000, exclusive of the service fee.

20 (8) Use any device or agreement, including, but not
21 limited to, agreements with or referrals to an affiliated
22 provider or any other provider, to obtain greater fees.

23 (9) Charge a drawer any fee in a deferred presentment
24 transaction, except as otherwise provided by this part, other
25 than the service fee authorized by this part.

26 (10) Require a drawer to write more than one check in
27 order to commence a deferred presentment transaction.

28 (11) Require a drawer to provide any security for any
29 deferred presentment transaction, or require a drawer to
30 provide any guaranty from another person.

31 560.407 Civil and criminal remedies.--

1 (1) A drawer who writes a check for a deferred
2 presentment transaction on an account that was closed on the
3 date the drawer and deferred presentment provider entered into
4 the transaction or that is closed prior to the deferral
5 period, is subject to all civil and criminal penalties
6 available at law.

7 (2) A deferred presentment provider may seek
8 collection pursuant to s. 68.065 on a check returned by the
9 payor financial institution due to lack of funds, a closed
10 account, or a stop payment order, only upon the deferred
11 presentment provider's receipt of the returned check. However,
12 a provider is not entitled to collect the treble damages
13 provided by s. 68.065 on a check returned due to lack of
14 funds. The notice sent by a provider pursuant to s. 68.065 may
15 not include any reference to treble damages and must clearly
16 state that the provider is not entitled to recover such
17 damages on a check returned due to lack of funds.

18 560.408 Books and records.--A deferred presentment
19 provider must maintain all books, accounts, records,
20 agreements, contracts, and documents, as prescribed by
21 department rules. Such books, accounts, records, and
22 documents must be retained for at least 3 years from the date
23 of the last transaction contained therein.

24 Section 7. Effective July 1, 1999, the sum of \$150,000
25 is appropriated for the 1999-2000 Fiscal Year from the
26 Regulatory Trust Fund of the Department of Banking and Finance
27 to the Department of Banking and Finance to fund 3 positions
28 for the purpose of administering the provisions of the
29 Deferred Presentment Act.

30 Section 8. This act shall take effect October 1, 1999.

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 2294

4 Reduces the maximum fee that may be charged for a deferred
5 presentment transaction from 20 percent to 15 percent of the
6 face amount of the check.

6 Limits the term of the deferred presentment to 31 days and
7 prohibits any extension or renewal.

8 Requires a separate application and \$500 fee for registration
9 and a \$1,000 renewal fee for a deferred presentment provider,
10 who must also be registered under part II (payment instruments
11 and funds transmission) or part III (check cashing and foreign
12 currency exchange), of chapter 560, F.S. Provides that a
13 registrant who fails to timely renew his or her registration
14 shall immediately cease to engage in the business of deferred
15 presentment transactions.

12 Requires that upon receipt of the drawer's check, a deferred
13 presentment provider must immediately provide the drawer with
14 the face amount of the check, less the service fee if such a
15 fee is included in the face amount of the check. Requires the
16 deferred presentment agreement to be executed on the same day
17 the drawer's check is signed.

16 Specifies the types of currency that the deferred presentment
17 provider may provide to the drawer of the check. Requires the
18 deferred presentment provider to allow the drawer to cash with
19 the provider any non-negotiable instrument issued by the
20 provider without incurring any fees or costs.

19 Prohibits a deferred presentment provider from redeeming,
20 extending, or otherwise consolidating a transaction with the
21 proceeds of another transaction made by the same provider.

21 Requires additional information to be included and additional
22 disclosure requirements made in all deferred presentment
23 agreements. The committee substitute also prohibits certain
24 provisions and clauses in deferred presentment agreements.

23 Prohibits a deferred presentment provider from presenting or
24 depositing a drawer's check before the end of the deferral
25 period. Requires the check to be endorsed with the actual name
26 under which the deferred presentment provider is doing
27 business. Allows a drawer of a check, at any time before the
28 end of the deferral, to elect to redeem his or her check.

26 Adds certain prohibited acts and practices for a deferred
27 presentment provider, such as accepting or holding an undated
28 check, altering or deleting the date, collecting a service fee
29 before the drawer's check is presented, deposited, or
30 redeemed, or holding more than two outstanding checks from any
31 one drawer at any one time.

30 Allows a deferred presentment provider to seek collection on a
31 bad check pursuant to s. 68.065, F.S., but a provider would
not be entitled to collect treble damages under that section.

1 Requires deferred presentment providers to maintain all books
2 and records for 3 years which must be made available to the
3 Department of Banking and Finance.

4 Revises various provisions of part I of chapter 560, F.S.,
5 relating to money transmitters, generally, to prohibit certain
6 acts that would be subject to disciplinary action by the
7 department; to prohibit a money transmitter from advertising
8 that he or she engages in the business of a money transmitter
9 unless that person is registered or exempt; and deletes
10 current provisions that provide for confidentiality of
11 hearings, proceedings, and related documents pursuant to this
12 part and which provide for confidentiality of certain
13 emergency orders of the department until the order is made
14 permanent.

15 Appropriates \$150,000 for FY 1999-2000 from the Regulatory
16 Trust Fund of the Department of Banking and Finance to the
17 department to fund three positions.

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