

By the Committees on Governmental Oversight and Productivity;
Banking and Insurance; and Senator Campbell

302-2121-00

1 A bill to be entitled
2 An act relating to deferred presentments;
3 amending s. 560.103, F.S.; revising
4 definitions; amending s. 560.114, F.S.;
5 providing additional grounds for disciplinary
6 action; providing for continuation of certain
7 administrative proceedings under certain
8 circumstances; 560.118, F.S.; eliminating the
9 authority to assess examination fees; amending
10 s. 560.119, F.S.; revising the deposit of fees
11 and assessments; amending s. 560.205, F.S.;
12 adding a fee for authorized vendor or branch
13 locations; amending 560.206, F.S.; amending the
14 registration period; amending s. 560.207, F.S.;
15 conforming and clarifying the fee for late
16 renewals; amending the renewal application fee;
17 amending s. 560.208, F.S.; requiring
18 notification of vendor or branch locations;
19 requiring a nonrefundable fee and financial
20 statement; amending s. 560.307, F.S.; applying
21 the investigation fee to check cashers and
22 foreign currency exchanges and adding a fee for
23 authorized vendors or branch locations;
24 requiring notification of vendor or branch
25 locations; amending s. 560.308, F.S.;
26 increasing the registration and renewal fee for
27 each registrant; clarifying the fee to be
28 charged for late renewal; creating part IV, ch.
29 560, F.S., consisting of ss. 560.401, 560.402,
30 560.403, 560.404, 560.405, 560.406, and
31 560.407, F.S.; providing a short title;

1 providing definitions; providing registration
2 requirements for deferred presentment
3 transactions; providing for filing fees;
4 providing limitations; specifying requirements
5 and limitations for engaging in deferred
6 presentment transactions; providing
7 prohibitions; providing for fees; providing
8 limitations; requiring certain notice;
9 specifying criteria and requirements for
10 deposit and redemption of a drawer's check;
11 providing procedures for recovering damages for
12 worthless checks; requiring maintenance of
13 records for a time certain; providing an
14 appropriation; providing effective dates.

15
16 Be It Enacted by the Legislature of the State of Florida:

17
18 Section 1. Paragraph (d) is added to subsection (4) of
19 section 560.103, Florida Statutes, and subsection (10) of that
20 section is 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 (d) Part IV of this chapter, relating to deferred
26 presentments.

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

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1 Section 2. Paragraphs (l) and (m) are added to
2 subsection (1) of section 560.114, Florida Statutes, paragraph
3 (d) of subsection (2) of said section is amended, and
4 subsection (4) is added to that section, to read:

5 560.114 Disciplinary actions.--

6 (1) The following actions by a money transmitter or
7 money transmitter-affiliated party are violations of the code
8 and constitute grounds for the issuance of a cease and desist
9 order, the issuance of a removal order, the denial of a
10 registration application or the suspension or revocation of
11 any registration previously issued pursuant to the code, or
12 the taking of any other action within the authority of the
13 department pursuant to the code:

14 (l) Failure to pay any fee, charge, or fine under the
15 code.

16 (m) Engaging or advertising engagement in the business
17 of a money transmitter without a registration, unless the
18 person is exempted from the registration requirements of the
19 code.

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

24 (d) Having been convicted of or found guilty of, or
25 having pleaded guilty or nolo contendere to, a crime involving
26 fraud ~~or dishonest dealing~~.

27 (4) If any registration expires while administrative
28 charges are still pending against the deferred presentment
29 provider, the proceedings against the registrant shall
30 continue as if the registration were still in effect.

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1 Section 3. Subsection (1) of section 560.118, Florida
2 Statutes, is amended to read:

3 560.118 Examinations, reports, and internal audits;
4 penalty.--

5 (1)(a) The department may conduct an examination of a
6 money transmitter or authorized vendor by providing not less
7 than 15 days' advance notice to the money transmitter or
8 authorized vendor; however, whenever the department has reason
9 to believe that a money transmitter or authorized vendor is
10 engaging in an unsafe and unsound practice, or has violated or
11 is violating any provision of the code, the department may
12 make an examination of such money transmitter or authorized
13 vendor without providing advance notice. The department may
14 accept an audit or examination from any appropriate regulatory
15 agency or from an independent third party with respect to the
16 operations of a money transmitter or an authorized vendor. The
17 department may also make a joint or concurrent examination
18 with any appropriate regulatory agency. The department may
19 furnish a copy of all examinations made of such money
20 transmitter or authorized vendor to the money transmitter and
21 any appropriate regulatory agency provided that such agency
22 agrees to abide by the confidentiality provisions as set forth
23 in chapter 119.

24 (b) The department may require an examination or audit
25 of a money transmitter or authorized vendor by an independent
26 third party that has been approved by the department. The
27 cost of such an independent examination or audit shall be
28 directly borne by the money transmitter or authorized vendor.

29 ~~(c) The department may recover the costs of a regular~~
30 ~~examination and supervision of a money transmitter or~~
31 ~~authorized vendor; however, the department may not recover the~~

1 ~~costs of more than one examination in any 12-month period~~
2 ~~unless the department has determined that the money~~
3 ~~transmitter or authorized vendor is operating in an unsafe or~~
4 ~~unsound or unlawful manner.~~

5 ~~(d) The department may, by rule, set a maximum per-day~~
6 ~~examination cost for a regular examination. Such per-day cost~~
7 ~~may be less than that required to fully compensate the~~
8 ~~department for costs associated with the examination. For the~~
9 ~~purposes of this section, "costs" means the salary and travel~~
10 ~~expenses directly attributable to the field staff examining~~
11 ~~the money transmitter or authorized vendor, and the travel~~
12 ~~expenses of any supervisory staff required as a result of~~
13 ~~examination findings. Reimbursement for such costs incurred~~
14 ~~under this subsection must be postmarked no later than 30 days~~
15 ~~after the date of receipt of a notice stating that such costs~~
16 ~~are due. The department may levy a late payment penalty of up~~
17 ~~to \$100 per day or part thereof that a payment is overdue,~~
18 ~~unless the late payment penalty is excused for good cause. In~~
19 ~~excusing any such late payment penalty, the department may~~
20 ~~consider the prior payment history of the money transmitter or~~
21 ~~authorized vendor.~~

22 Section 4. Section 560.119, Florida Statutes, is
23 amended to read:

24 560.119 Deposit of fees and assessments.--The
25 application fees, registration renewal fees, ~~examination fees,~~
26 late payment penalties, civil penalties, administrative fines,
27 and other fees or penalties provided for in the code shall, in
28 all cases, be paid directly to the department, which shall
29 deposit such proceeds into the ~~Financial Institutions~~
30 Regulatory Trust Fund. Each year, the Legislature shall
31 appropriate from the trust fund to the department sufficient

1 moneys to pay the department's costs for administration of the
2 code. The ~~Financial Institutions~~ Regulatory Trust Fund is
3 subject to the service charge imposed pursuant to chapter 215.

4 Section 5. Subsection (2) of section 560.205, Florida
5 Statutes, is amended to read:

6 560.205 Qualifications of applicant for registration;
7 contents.--

8 (2) Each application for registration must be
9 submitted under oath to the department on such forms as the
10 department prescribes by rule and must be accompanied by a
11 nonrefundable application investigation fee. Such fee may not
12 exceed \$500 for each payment instrument seller or funds
13 transmitter and \$50 for each authorized vendor or branch
14 location and may be waived by the department for just cause.

15 The application forms shall set forth such information as the
16 department reasonably requires, including, but not limited to:

17 (a) The name and address of the applicant, including
18 any fictitious or trade names used by the applicant in the
19 conduct of its business.

20 (b) The history of the applicant's material
21 litigation, criminal convictions, pleas of nolo contendere,
22 and cases of adjudication withheld.

23 (c) A description of the activities conducted by the
24 applicant, the applicant's history of operations, and the
25 business activities in which the applicant seeks to engage in
26 this state.

27 (d) A list identifying the applicant's proposed
28 authorized vendors in this state, including the location or
29 locations in this state at which the applicant and its
30 authorized vendors propose to conduct registered activities.

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1 (e) A sample authorized vendor contract, if
2 applicable.

3 (f) A sample form of payment instrument, if
4 applicable.

5 (g) The name and address of the clearing financial
6 institution or financial institutions through which the
7 applicant's payment instruments will be drawn or through which
8 such payment instruments will be payable.

9 (h) Documents revealing that the net worth and bonding
10 requirements specified in s. 560.209 have been or will be
11 fulfilled.

12 Section 6. Section 560.206, Florida Statutes, is
13 amended to read:

14 560.206 Investigation of applicants.--Upon the filing
15 of a properly completed application, accompanied by the
16 nonrefundable application fee and other required documents,
17 the department shall investigate to ascertain whether the
18 qualifications and requirements prescribed by this part have
19 been met. If the department finds that the applicant meets
20 such qualifications and requirements, the department shall
21 issue the applicant a registration to engage in the business
22 of selling payment instruments and transmitting funds in this
23 state. Any registration issued under this part shall remain
24 effective through April 30 of the second year following its
25 date of issuance, not to exceed 24 months, unless during such
26 period the registration is in effect through April 30 next
27 ~~following its date of issuance unless otherwise specified by~~
28 ~~the department or earlier surrendered, suspended, or revoked.~~

29 Section 7. Section 560.207, Florida Statutes, is
30 amended to read:

31 560.207 Renewal of registration; registration fee.--

1 (1) Registration may be renewed for a 24-month period
2 or the remainder of any such period without proration
3 following the date of its expiration, upon the filing with the
4 department of an application and other statements and
5 documents as may reasonably be required of registrants by the
6 department. However, the registrant must remain qualified for
7 such registration under the provisions of this part.

8 (2) All registration renewal applications shall be
9 accompanied by a renewal fee not to exceed \$1,000, unless such
10 fee is waived by the department. All renewal applications must
11 be filed on or after January 1 of the year in which the
12 existing registration expires, but before March 31. If the
13 renewal application is filed prior to the expiration date of
14 an existing registration, no late investigation fee shall be
15 paid in connection with such renewal application. If the
16 renewal application is filed within 60 days after the
17 expiration date of an existing registration, then, in addition
18 to the \$1,000 renewal fee, the renewal application shall be
19 accompanied by a nonrefundable late fee of \$500 ~~investigation~~
20 ~~fee pursuant to s. 560.205(2)~~. If the registrant has not filed
21 a renewal application within 60 days of the expiration date of
22 an existing registration, then a new application must be filed
23 with the department pursuant to s. 560.205.

24 (3) Every registration renewal application shall also
25 include a 2-year registration fee of \$50 for each location
26 operating within this state or, at the option of the
27 registrant, a total 2-year fee of \$20,000~~\$5,000~~ may be paid
28 to register all such locations operating within this state.

29 Section 8. Section 560.208, Florida Statutes, is
30 amended to read:

31 560.208 Conduct of business.--

1 (1) A registrant may conduct its business at one or
2 more locations within this state through branches or by means
3 of authorized vendors, as designated by the registrant.

4 (2) Each registrant shall notify the department,
5 within 60 days from the date of designation by the registrant,
6 of each authorized vendor or branch location. This
7 notification shall be accompanied by a nonrefundable \$50 fee
8 for each authorized vendor or branch location. Each
9 notification shall also be accompanied by a financial
10 statement demonstrating compliance with s. 560.209(1), unless
11 compliance is demonstrated by the quarterly report filed in
12 compliance with s. 560.118(2). This section shall not apply
13 to any authorized vendor or branch location that has been
14 designated by the registrant before the effective date of this
15 provision.

16 Section 9. Section 560.307, Florida Statutes, is
17 amended to read:

18 560.307 Fees.--

19 (1) The application shall be filed together with a
20 nonrefundable ~~application investigation~~ fee that shall be
21 established by department rule; however, the ~~application~~
22 ~~investigation~~ fee may not exceed \$250 ~~for each check casher or~~
23 ~~foreign currency exchanger and \$50 for each authorized vendor~~
24 ~~or branch location. Such investigation fee shall satisfy the~~
25 ~~fee requirement for the first year of registration or the~~
26 ~~remaining part thereof.~~

27 (2) Each registrant shall notify the department,
28 within 60 days from the date of designation by the registrant,
29 of each authorized vendor or branch location. This
30 notification shall be accompanied by a nonrefundable \$50 fee
31 for each authorized vendor or branch location. This section

1 shall not apply to any authorized vendor or branch location
2 that has been designated by the registrant before the
3 effective date of this provision.

4 Section 10. Section 560.308, Florida Statutes, is
5 amended to read:

6 560.308 Registration terms; renewal; renewal fees.--

7 (1) Registration pursuant to this part shall remain
8 effective through the remainder of the second calendar year
9 following its date of issuance unless during such calendar
10 year the registration is surrendered, suspended, or revoked.

11 (2) The department shall renew registration upon
12 receipt of a completed renewal form and payment of a
13 nonrefundable renewal fee, as provided by rule, not to exceed
14 \$500. The completed renewal form and payment of the renewal
15 fee shall occur on or after June 1 of the year in which the
16 existing registration expires.

17 (3) In addition to the renewal fee required by
18 subsection (2), each registrant must register and pay a \$50
19 registration fee for each location, including any authorized
20 vendors, operating within this state or, at the option of the
21 registrant, a total 2-year fee of ~~\$20,000~~\$5,000 may be paid
22 to register all such operating locations within this state.

23 (4) Registration that is not renewed on or before the
24 expiration date of the registration period automatically
25 expires. A renewal application and fee, and a late fee of \$250
26 ~~an investigation fee pursuant to s. 560.307~~, must be filed
27 within 60 calendar days after the expiration of an existing
28 registration in order for the registration to before
29 ~~registration may~~ be reinstated.

30 Section 11. Part IV of chapter 560, Florida Statutes,
31 consisting of sections 560.401, 560.402, 560.403, 560.404,

1 560.405, 560.406, and 560.407, Florida Statutes, is created to
2 read:

3 PART IV

4 DEFERRED PRESENTMENT

5 560.401 Short title.--This part may be cited as the
6 "Deferred Presentment Act."

7 560.402 Definitions.--In addition to the definitions
8 provided in ss. 560.103, 560.202, and 560.302 and unless
9 otherwise clearly indicated by the context, for purposes of
10 this part:

11 (1) "Affiliate" means a person who directly or
12 indirectly through one or more intermediaries controls or is
13 controlled by, or is under common control with, a deferred
14 presentment provider.

15 (2) "Amount financed" means the total amount of credit
16 provided to the drawer by the deferred presentment provider.

17 (3) "Business day" means the hours during a particular
18 day during which a deferred presentment provider customarily
19 conducts business, not to exceed 15 consecutive hours during
20 that day.

21 (4) "Days" means calendar days.

22 (5) "Deferment period" means the number of days a
23 deferred presentment provider agrees to defer depositing or
24 presenting a payment instrument. A deferment period may not
25 exceed 31 days.

26 (6) "Deferred presentment provider" means a person who
27 engages in a deferred presentment transaction and is
28 registered under part II or part III of the code and has filed
29 a declaration of intent with the department.

30 (7) "Deferred presentment transaction" means providing
31 currency or a payment instrument in exchange for a person's

1 check and agreeing to hold that person's check for a period of
2 time prior to presentment, deposit, or redemption. A deferred
3 presentment transaction that complies with the provisions
4 contained in this part shall not be construed to be a loan
5 under state law.

6 (8) "Drawer" means any person who writes a personal
7 check and upon whose account the check is drawn.

8 (9) "Rollover" means the termination of an existing
9 deferred presentment agreement solely by the payment of fees
10 then due the deferred presentment provider and the continued
11 holding of the check or the substitution of a new check drawn
12 by the drawer pursuant to a new deferred presentment
13 agreement.

14 (10) "Fee" means the fee authorized for the deferral
15 of the presentation of a check pursuant to this part. This fee
16 shall not be deemed to be interest for any purpose.

17 (11) "Termination of an existing deferred presentment
18 agreement" occurs when the check that is the basis for the
19 agreement is presented for payment, is deposited, or is
20 redeemed by the drawer by payment in full in cash or a cash
21 equivalent to the deferred presentment provider.

22 560.403 Requirements of registration; declaration of
23 intent.--

24 (1) No person shall engage in a deferred presentment
25 transaction unless the person is registered under the
26 provisions of part II or part III and has on file with the
27 department a declaration of intent to engage in deferred
28 presentment transactions. The declaration of intent shall be
29 under oath and on such form as the department prescribes by
30 rule. The declaration of intent shall be filed together with
31 a nonrefundable filing fee of \$1,000. Any person who is

1 registered under part II or part III on the effective date of
2 this act and intends to engage in deferred presentment
3 transactions shall have 60 days after the effective date of
4 this act to file a declaration of intent.

5 (2) A registrant under this part shall renew his or
6 her intent to engage in the business of deferred presentment
7 transactions or to act as a deferred presentment provider upon
8 renewing his or her registration under part II or part III and
9 shall do so by indicating his or her intent on the renewal
10 form and by submitting a nonrefundable deferred presentment
11 provider renewal fee of \$1,000, in addition to any fees
12 required for renewal of registration under part II or part
13 III.

14 (3) A registrant under this part who fails to timely
15 renew his or her intent to engage in the business of deferred
16 presentment transactions or to act as a deferred presentment
17 provider shall immediately cease to engage in the business of
18 deferred presentment transactions or to act as a deferred
19 presentment provider.

20 (4) The license of a registrant under this part who
21 fails to timely renew his or her intent to engage in the
22 business of deferred presentment transactions or to act as a
23 deferred presentment provider on or before the expiration date
24 of the registration period automatically expires. A renewal
25 declaration of intent and fee, and a late fee of \$500, must be
26 filed within 60 calendar days after the expiration of an
27 existing registration in order for the declaration of intent
28 to be reinstated. If the registrant has not filed a renewal
29 declaration of intent within 60 days after the expiration date
30 of an existing registration, then a new declaration must be
31 filed with the department.

1 (5) No person shall be exempt from registration and
2 declaration if such person engages in deferred presentment
3 transactions, regardless of whether such person is currently
4 exempt from registration under any provision of this code.

5 (6) Every deferred presentment transaction shall be
6 documented in a written agreement signed by both the deferred
7 presentment provider and the drawer.

8 (7) The deferred presentment transaction agreement
9 shall be executed on the day the deferred presentment provider
10 furnishes currency or a payment instrument to the drawer.

11 (8) Each written agreement shall contain:

12 (a) The name or trade name, address, and telephone
13 number of the deferred presentment provider and the name and
14 title of the person who signs the agreement on behalf of the
15 deferred presentment provider.

16 (b) The date the deferred presentment transaction was
17 made.

18 (c) The amount of the drawer's check.

19 (d) The length of deferral period.

20 (e) The address and telephone number of the
21 department.

22 (f) A clear description of the drawer's payment
23 obligations under the deferred presentment transaction.

24 (9) Every deferred presentment provider shall furnish
25 to the drawer a copy of the deferred presentment transaction
26 agreement.

27 (10) No deferred presentment provider shall require a
28 person to provide any additional security for the deferred
29 presentment transaction or any extension or require a person
30 to provide any additional guaranty from another person.

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1 (11) A deferred presentment provider shall not include
2 any of the following provisions in any written agreement:

3 (a) A hold harmless clause;

4 (b) A confession of judgment clause;

5 (c) Any assignment of or order for payment of wages or
6 other compensation for services;

7 (d) A provision in which the drawer agrees not to
8 assert any claim or defense arising out of the agreement; or

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

10 560.404 Rules.--A person may engage in deferred
11 presentment transactions, subject to the following:

12 (1) No deferred presentment provider shall charge fees
13 in excess of 10 percent of the amount financed. However, a
14 verification fee may be charged in accordance with s.
15 560.309(4) and the rules adopted pursuant to the code.

16 (2) Each deferred presentment provider shall
17 immediately provide the drawer with the full amount of any
18 check to be held, less only the fees permitted under this
19 section. However, no deferred presentment provider shall
20 provide a drawer with the face amount of the check to be held.

21 (3) The deferred presentment agreement and drawer's
22 check shall bear the same date, and the number of days shall
23 be calculated from this date. No deferred presentment provider
24 or person may alter or delete the date on any written
25 agreement or check held by the deferred presentment provider.

26 (4) For each deferred presentment transaction, the
27 deferred presentment provider must comply with the disclosure
28 requirements of 12 C.F.R., Part 226, the federal
29 Truth-in-Lending Act, and Regulation Z of the Board of
30 Governors of the Federal Reserve Board. A copy of the

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1 disclosure must be provided to the drawer at the time the
2 deferred presentment transaction is initiated.

3 (5) No deferred presentment provider may accept or
4 hold an undated check or a check dated on a date other than
5 the date on which the deferred presentment provider agreed to
6 hold the check and signed the deferred presentment transaction
7 agreement.

8 (6) No deferred presentment agreement shall be for a
9 term in excess of 21 days unless the term is modified by a
10 political subdivision or a municipality by ordinance. The term
11 may not be less than 14 days or more than 31 days.

12 (7) Every deferred presentment provider shall hold the
13 drawer's check for the agreed number of days, unless the
14 drawer chooses to redeem the check before the agreed
15 presentment date.

16 (8) The fees authorized by this section may not be
17 collected before the drawer's check is presented or redeemed.

18 (9) Proceeds in a deferred presentment transaction may
19 be made to the drawer in the form of the deferred presentment
20 provider's business check or money order if the deferred
21 presentment provider is licensed under part II; however, no
22 additional fee may be charged by a deferred presentment
23 provider for issuing or cashing the deferred presentment
24 provider's check.

25 (10) No deferred presentment provider may engage in
26 the rollover of any deferred presentment agreement. Two
27 business days after the termination of an existing deferred
28 presentment agreement, the drawer may enter into a separate
29 deferred presentment agreement with the same deferred
30 presentment provider or its affiliate. A deferred presentment
31 provider shall not redeem, extend, or otherwise consolidate a

1 deferred presentment agreement with the proceeds of another
2 deferred presentment transaction made by the same deferred
3 presentment provider.

4 (11) The face amount of a check taken for deferred
5 presentment may not exceed \$500 exclusive of the fees allowed
6 by this part.

7 (12) No deferred presentment provider or affiliate may
8 have outstanding more than one check from any one drawer at
9 any one time, nor may the face value of any outstanding check
10 from any one drawer payable to any deferred presentment
11 provider or its affiliate exceed \$500, exclusive of the fees
12 allowed by this part. A deferred presentment provider shall
13 maintain a common database for the purpose of verifying
14 whether that deferred presentment provider or an affiliate has
15 outstanding more than one check from any one drawer at any
16 time. A deferred presentment provider shall not use any device
17 or agreement, including, but not limited to, agreements with
18 or referrals to other deferred presentment providers, to
19 obtain greater fees.

20 (13) A deferred presentment provider shall provide a
21 notice in a prominent place on each deferred presentment
22 agreement in at least 16-point type in substantially the
23 following form:

24
25 NOTICE

26 STATE LAW PROHIBITS YOU FROM HAVING MORE THAN 1 DEFERRED
27 PRESENTMENT AGREEMENT WITH THIS DEFERRED PRESENTMENT PROVIDER

28 OR AN AFFILIATE TOTALING MORE THAN \$500,

29 EXCLUSIVE OF FEES, OUTSTANDING AT ANY TIME.

30 FAILURE TO OBEY THIS LAW COULD CREATE SEVERE FINANCIAL

31 HARDSHIP FOR YOU AND YOUR FAMILY.

1 (14) A deferred presentment provider shall charge only
2 those fees specifically authorized in this section.

3 (15) If, at the end of the deferment period, the
4 drawer cannot redeem or pay in full in cash the amount due and
5 owing the deferred presentment provider, or if there are
6 insufficient available funds in the drawer's account, the
7 deferred presentment provider shall not deposit or present for
8 payment a check being held for deferred presentment before the
9 expiration of 60 days from the date of the deferred
10 presentment agreement. The deferred presentment provider may
11 rely upon the representation of the drawer as to the
12 sufficiency of funds in the drawer's account. No additional
13 fees or penalties shall be imposed on the drawer by virtue of
14 any misrepresentation made by the drawer as to the sufficiency
15 of funds in the drawer's account. In no event shall any
16 additional fees be added to the amounts due and owing to the
17 deferred presentment provider.

18 560.405 Deposit; redemption.--

19 (1) The deferred presentment provider shall not
20 present the drawer's check prior to the agreed-upon date of
21 presentment, as reflected in the deferred presentment
22 transaction agreement.

23 (2) Before a deferred presentment provider presents
24 the drawer's check, the check shall be endorsed with the
25 actual name under which the deferred presentment provider is
26 doing business.

27 (3) Notwithstanding the provisions of subsection (1),
28 in lieu of presentment, a deferred presentment provider may
29 allow the check to be redeemed at any time upon payment to the
30 deferred presentment provider in the amount of the face amount
31 of the drawer's check. However, payment may not be made in the

1 form of a personal check. Upon redemption, the deferred
2 presentment provider shall return the drawer's check that was
3 being held and provide a signed, dated receipt showing that
4 the drawer's check has been redeemed.

5 (4) No drawer can be required to redeem his or her
6 check prior to the agreed-upon date, unless the drawer chooses
7 to redeem the check before the agreed-upon presentment date.

8 560.406 Worthless checks.--If a check is returned to a
9 deferred presentment provider from a payor financial
10 institution due to lack of funds, a closed account, or a
11 stop-payment order, the deferred presentment provider may seek
12 collection pursuant to s. 68.065, except a deferred
13 presentment provider shall not be entitled to collect treble
14 damages pursuant s. 68.065. The notice sent by a deferred
15 deposit provider pursuant to s. 68.065 shall not include any
16 references to treble damages and must clearly state that the
17 deferred presentment provider is not entitled to recover such
18 damages. Except as otherwise provided in this part, an
19 individual who issues a personal check to a deferred
20 presentment provider under a deferred presentment agreement is
21 not subject to criminal penalty. If a check is returned to a
22 deferred presentment provider from a payor financial
23 institution due to insufficient funds, a closed account, or a
24 stop-payment order, the deferred presentment provider may
25 pursue all legally available civil remedies to collect the
26 check, including, but not limited to, the imposition of all
27 charges imposed on the deferred presentment provider by any
28 financial institution. In its collection practices, a deferred
29 presentment provider shall comply with the prohibitions
30 against harassment or abuse, false or misleading
31 representations, and unfair practices, which are contained in

1 ss. 806, 807, and 808 of the Fair Debt Collections Practices
2 Act, 15 U.S.C. ss. 1692d, 1692e, 1692f. A violation of this
3 act is a deceptive and unfair trade practice and constitutes a
4 violation of the Deceptive and Unfair Trade Practices Act,
5 part II, of chapter 501. In addition, a deferred presentment
6 provider shall comply with the applicable provisions of part
7 VI of chapter 559, the Consumer Collection Practices Act,
8 including, but not limited to, the provisions of s. 559.77.

9 560.407 Records.--

10 (1) Each registrant under this part must maintain all
11 books, accounts, records, and documents necessary to determine
12 the registrant's compliance with the provisions of the code.
13 Such books, accounts, records and documents shall be retained
14 for a period of at least 3 years unless a longer period is
15 expressly required by the department, the laws of this state,
16 or any federal law.

17 (2) The records required to be maintained by the code
18 or any rule adopted pursuant thereto may be maintained by the
19 registrant at any location within this state, provided that
20 the registrant notifies the department, in writing, of the
21 location of the records in its application or otherwise.

22 (3) A registrant shall make records available to the
23 department for examination and investigation in this state, as
24 permitted by the code, within 7 days after receipt of a
25 written request.

26 (4) The original of any record of a registrant
27 includes the data or other information comprising a record
28 stored or transmitted in or by means of any electronic,
29 computerized, mechanized, or other information storage or
30 retrieval or transmission system or device that can upon
31 request generate, regenerate, or transmit the precise data or

1 other information comprising the record. An original also
2 includes the visible data or other information so generated,
3 regenerated, or transmitted if it is legible or can be made
4 legible by enlargement or other process.

5 Section 12. Effective July 1, 2000, the sum of
6 \$150,000 is appropriated from the Regulatory Trust Fund of the
7 Department of Banking and Finance to the department for fiscal
8 year 2000-2001 to fund three positions for the purpose of
9 administering the provisions of the Deferred Presentment Act.

10 Section 13. Except as otherwise provided in this act,
11 this act shall take effect October 1, 2000.

12
13 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
14 COMMITTEE SUBSTITUTE FOR
15 CS for SB 1730

16 Changes the definitions applicable to Part IV activities.

17 Changes the deferment period allowed for deferred presentment
18 transactions, and allows local governments to modify the
permissible deferment period.

19 Changes the disclosure requirements for a deferred presentment
20 agreement.

21 Changes the waiting period between deferred presentment
22 transactions.

23 Adds that providers must establish a database to track
24 drawers.

25 Adds that lenders may not deposit a drawer's check for a
26 60-day period under certain circumstances.

27 Adds that state and federal consumer collection laws apply to
28 providers.

29 Removes provisions which make it a 3rd degree felony to
30 violate Part IV of ch. 560, F.S.

31 Changes a deferred presentment provider's remedies for checks
returned by a financial institution.

Adds fee increases for ch. 560, F.S., registrants.

Adds acts which constitute violations of ch. 560, F.S.