

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

1 560.401, 560.402, 560.403, 560.404, 560.405,
2 560.406, 560.407, and 560.408, F.S.; providing
3 a short title; providing definitions; providing
4 registration requirements for deferred
5 presentment transactions; providing for filing
6 fees; providing limitations; specifying
7 requirements and limitations for engaging in
8 deferred presentment transactions; providing
9 prohibitions; providing for fees; providing
10 limitations; requiring certain notice;
11 specifying criteria and requirements for
12 deposit and redemption of a drawer's check;
13 providing procedures for recovering damages for
14 worthless checks; requiring maintenance of
15 records for a time certain; providing
16 legislative intent; requiring the Comptroller
17 to submit a report to the President of the
18 Senate and the Speaker of the House of
19 Representatives concerning the effectiveness of
20 this act; providing an appropriation; providing
21 effective dates.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Paragraph (d) is added to subsection (4) of
26 section 560.103, Florida Statutes, and subsection (10) of that
27 section is amended, to read:

28 560.103 Definitions.--As used in the code, unless the
29 context otherwise requires:

30 (4) "Code" means the "Money Transmitters' Code,"
31 consisting of:

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

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. Subsection (4) is added to section 560.111,
8 Florida Statutes, to read:

9 560.111 Prohibited acts and practices.--

10 (4) Any person who is not a registered money
11 transmitter and is not otherwise exempt from this code and who
12 violates, or any registered money transmitter who willfully
13 violates, any provision of s. 560.403, s. 560.404, s. 560.405,
14 or s. 560.407 commits a felony of the third degree, punishable
15 as provided in s. 775.082, s. 775.083, or s. 775.084.

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

20 560.114 Disciplinary actions.--

21 (1) The following actions by a money transmitter or
22 money transmitter-affiliated party are violations of the code
23 and constitute grounds for the issuance of a cease and desist
24 order, the issuance of a removal order, the denial of a
25 registration application or the suspension or revocation of
26 any registration previously issued pursuant to the code, or
27 the taking of any other action within the authority of the
28 department pursuant to the code:

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

31

1 (m) Engaging or advertising engagement in the business
2 of a money transmitter without a registration, unless the
3 person is exempted from the registration requirements of the
4 code.

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

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

12 (4) If any registration expires while administrative
13 charges are still pending against the deferred presentment
14 provider, the proceedings against the registrant shall
15 continue as if the registration were still in effect.

16 Section 4. Subsection (1) of section 560.118, Florida
17 Statutes, is amended to read:

18 560.118 Examinations, reports, and internal audits;
19 penalty.--

20 (1)(a) The department may conduct an examination of a
21 money transmitter or authorized vendor by providing not less
22 than 15 days' advance notice to the money transmitter or
23 authorized vendor; however, whenever the department has reason
24 to believe that a money transmitter or authorized vendor is
25 engaging in an unsafe and unsound practice, or has violated or
26 is violating any provision of the code, the department may
27 make an examination of such money transmitter or authorized
28 vendor without providing advance notice. The department may
29 accept an audit or examination from any appropriate regulatory
30 agency or from an independent third party with respect to the
31 operations of a money transmitter or an authorized vendor. The

1 department may also make a joint or concurrent examination
2 with any appropriate regulatory agency. The department may
3 furnish a copy of all examinations made of such money
4 transmitter or authorized vendor to the money transmitter and
5 any appropriate regulatory agency provided that such agency
6 agrees to abide by the confidentiality provisions as set forth
7 in chapter 119.

8 (b) The department may require an examination or audit
9 of a money transmitter or authorized vendor by an independent
10 third party that has been approved by the department. The
11 cost of such an independent examination or audit shall be
12 directly borne by the money transmitter or authorized vendor.

13 ~~(c) The department may recover the costs of a regular
14 examination and supervision of a money transmitter or
15 authorized vendor; however, the department may not recover the
16 costs of more than one examination in any 12-month period
17 unless the department has determined that the money
18 transmitter or authorized vendor is operating in an unsafe or
19 unsound or unlawful manner.~~

20 ~~(d) The department may, by rule, set a maximum per-day
21 examination cost for a regular examination. Such per-day cost
22 may be less than that required to fully compensate the
23 department for costs associated with the examination. For the
24 purposes of this section, "costs" means the salary and travel
25 expenses directly attributable to the field staff examining
26 the money transmitter or authorized vendor, and the travel
27 expenses of any supervisory staff required as a result of
28 examination findings. Reimbursement for such costs incurred
29 under this subsection must be postmarked no later than 30 days
30 after the date of receipt of a notice stating that such costs
31 are due. The department may levy a late payment penalty of up~~

1 ~~to \$100 per day or part thereof that a payment is overdue,~~
2 ~~unless the late payment penalty is excused for good cause. In~~
3 ~~excusing any such late payment penalty, the department may~~
4 ~~consider the prior payment history of the money transmitter or~~
5 ~~authorized vendor.~~

6 Section 5. Section 560.119, Florida Statutes, is
7 amended to read:

8 560.119 Deposit of fees and assessments.--The
9 application fees, registration renewal fees, ~~examination fees,~~
10 late payment penalties, civil penalties, administrative fines,
11 and other fees or penalties provided for in the code shall, in
12 all cases, be paid directly to the department, which shall
13 deposit such proceeds into the ~~Financial Institutions~~
14 Regulatory Trust Fund. Each year, the Legislature shall
15 appropriate from the trust fund to the department sufficient
16 moneys to pay the department's costs for administration of the
17 code. The ~~Financial Institutions~~ Regulatory Trust Fund is
18 subject to the service charge imposed pursuant to chapter 215.

19 Section 6. Subsection (2) of section 560.205, Florida
20 Statutes, is amended to read:

21 560.205 Qualifications of applicant for registration;
22 contents.--

23 (2) Each application for registration must be
24 submitted under oath to the department on such forms as the
25 department prescribes by rule and must be accompanied by a
26 nonrefundable application investigation fee. Such fee may not
27 exceed \$500 for each payment instrument seller or funds
28 transmitter and \$50 for each authorized vendor or branch
29 location and ~~may be waived by the department for just cause.~~
30 The application forms shall set forth such information as the
31 department reasonably requires, including, but not limited to:

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

4 (b) The history of the applicant's material
5 litigation, criminal convictions, pleas of nolo contendere,
6 and cases of adjudication withheld.

7 (c) A description of the activities conducted by the
8 applicant, the applicant's history of operations, and the
9 business activities in which the applicant seeks to engage in
10 this state.

11 (d) A list identifying the applicant's proposed
12 authorized vendors in this state, including the location or
13 locations in this state at which the applicant and its
14 authorized vendors propose to conduct registered activities.

15 (e) A sample authorized vendor contract, if
16 applicable.

17 (f) A sample form of payment instrument, if
18 applicable.

19 (g) The name and address of the clearing financial
20 institution or financial institutions through which the
21 applicant's payment instruments will be drawn or through which
22 such payment instruments will be payable.

23 (h) Documents revealing that the net worth and bonding
24 requirements specified in s. 560.209 have been or will be
25 fulfilled.

26 Section 7. Section 560.206, Florida Statutes, is
27 amended to read:

28 560.206 Investigation of applicants.--Upon the filing
29 of a properly completed application, accompanied by the
30 nonrefundable application fee and other required documents,
31 the department shall investigate to ascertain whether the

1 qualifications and requirements prescribed by this part have
2 been met. If the department finds that the applicant meets
3 such qualifications and requirements, the department shall
4 issue the applicant a registration to engage in the business
5 of selling payment instruments and transmitting funds in this
6 state. Any registration issued under this part shall remain
7 effective through April 30 of the second year following its
8 date of issuance, not to exceed 24 months, unless during such
9 period the registration is in effect through April 30 next
10 following its date of issuance unless otherwise specified by
11 the department or earlier surrendered, suspended, or revoked.

12 Section 8. Section 560.207, Florida Statutes, is
13 amended to read:

14 560.207 Renewal of registration; registration fee.--

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

22 (2) All registration renewal applications shall be
23 accompanied by a renewal fee not to exceed \$1,000, unless such
24 fee is waived by the department. All renewal applications must
25 be filed on or after January 1 of the year in which the
26 existing registration expires, but before March 31. If the
27 renewal application is filed prior to the expiration date of
28 an existing registration, no late investigation fee shall be
29 paid in connection with such renewal application. If the
30 renewal application is filed within 60 days after the
31 expiration date of an existing registration, then, in addition

1 to the \$1,000 renewal fee, the renewal application shall be
2 accompanied by a nonrefundable late fee of \$500 ~~investigation~~
3 ~~fee pursuant to s. 560.205(2)~~. If the registrant has not filed
4 a renewal application within 60 days of the expiration date of
5 an existing registration, then a new application must be filed
6 with the department pursuant to s. 560.205.

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

12 Section 9. Section 560.208, Florida Statutes, is
13 amended to read:

14 560.208 Conduct of business.--

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

18 (2) Each registrant shall notify the department,
19 within 60 days from the date of designation by the registrant,
20 of each authorized vendor or branch location. This
21 notification shall be accompanied by a nonrefundable \$50 fee
22 for each authorized vendor or branch location. Each
23 notification shall also be accompanied by a financial
24 statement demonstrating compliance with s. 560.209(1), unless
25 compliance is demonstrated by the quarterly report filed in
26 compliance with s. 560.118(2). This section shall not apply
27 to any authorized vendor or branch location that has been
28 designated by the registrant before the effective date of this
29 provision.

30 Section 10. Section 560.307, Florida Statutes, is
31 amended to read:

1 560.307 Fees.--

2 (1) The application shall be filed together with a
3 nonrefundable application investigation fee that shall be
4 established by department rule; however, the application
5 investigation fee may not exceed \$250 for each check casher or
6 foreign currency exchanger and \$50 for each authorized vendor
7 or branch location. Such investigation fee shall satisfy the
8 fee requirement for the first year of registration or the
9 remaining part thereof.

10 (2) Each registrant shall notify the department,
11 within 60 days from the date of designation by the registrant,
12 of each authorized vendor or branch location. This
13 notification shall be accompanied by a nonrefundable \$50 fee
14 for each authorized vendor or branch location. This section
15 shall not apply to any authorized vendor or branch location
16 that has been designated by the registrant before the
17 effective date of this provision.

18 Section 11. Section 560.308, Florida Statutes, is
19 amended to read:

20 560.308 Registration terms; renewal; renewal fees.--

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

25 (2) The department shall renew registration upon
26 receipt of a completed renewal form and payment of a
27 nonrefundable renewal fee, as provided by rule, not to exceed
28 \$500. The completed renewal form and payment of the renewal
29 fee shall occur on or after June 1 of the year in which the
30 existing registration expires.

31

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

7 (4) Registration that is not renewed on or before the
8 expiration date of the registration period automatically
9 expires. A renewal application and fee, and a late fee of \$250
10 ~~an investigation fee pursuant to s. 560.307~~, must be filed
11 within 60 calendar days after the expiration of an existing
12 registration in order for the registration to be ~~before~~
13 ~~registration may~~ be reinstated.

14 Section 12. Part IV of chapter 560, Florida Statutes,
15 consisting of sections 560.401, 560.402, 560.403, 560.404,
16 560.405, 560.406, 560.407, and 560.408, Florida Statutes, is
17 created to read:

18 PART IV

19 DEFERRED PRESENTMENT

20 560.401 Short title.--This part may be cited as the
21 "Deferred Presentment Act."

22 560.402 Definitions.--In addition to the definitions
23 provided in ss. 560.103, 560.202, and 560.302 and unless
24 otherwise clearly indicated by the context, for purposes of
25 this part:

26 (1) "Affiliate" means a person who directly or
27 indirectly through one or more intermediaries controls or is
28 controlled by, or is under common control with, a deferred
29 presentment provider.

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

1 (3) "Business day" means the hours during a particular
2 day during which a deferred presentment provider customarily
3 conducts business, not to exceed 15 consecutive hours during
4 that day.

5 (4) "Days" means calendar days.

6 (5) "Deferment period" means the number of days a
7 deferred presentment provider agrees to defer depositing or
8 presenting a payment instrument. A deferment period may not
9 exceed 31 days.

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

14 (7) "Deferred presentment transaction" means providing
15 currency or a payment instrument in exchange for a person's
16 check and agreeing to hold that person's check for a period of
17 time prior to presentment, deposit, or redemption.

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

20 (9) "Rollover" means the termination of an existing
21 deferred presentment agreement solely by the payment of fees
22 then due the deferred presentment provider and the continued
23 holding of the check or the substitution of a new check drawn
24 by the drawer pursuant to a new deferred presentment
25 agreement.

26 (10) "Fee" means the fee authorized for the deferral
27 of the presentation of a check pursuant to this part.

28 (11) "Termination of an existing deferred presentment
29 agreement" occurs when the check that is the basis for the
30 agreement is presented for payment, is deposited, or is
31

1 redeemed by the drawer by payment in full in cash or a cash
2 equivalent to the deferred presentment provider.

3 560.403 Requirements of registration; declaration of
4 intent.--

5 (1) No person shall engage in a deferred presentment
6 transaction unless the person is registered under the
7 provisions of part II or part III and has on file with the
8 department a declaration of intent to engage in deferred
9 presentment transactions. The declaration of intent shall be
10 under oath and on such form as the department prescribes by
11 rule. The declaration of intent shall be filed together with
12 a nonrefundable filing fee of \$1,000. Any person who is
13 registered under part II or part III on the effective date of
14 this act and intends to engage in deferred presentment
15 transactions shall have 60 days after the effective date of
16 this act to file a declaration of intent.

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

26 (3) A registrant under this part who fails to timely
27 renew his or her intent to engage in the business of deferred
28 presentment transactions or to act as a deferred presentment
29 provider shall immediately cease to engage in the business of
30 deferred presentment transactions or to act as a deferred
31 presentment provider.

1 (4) The license of a registrant under this part who
2 fails to timely renew his or her intent to engage in the
3 business of deferred presentment transactions or to act as a
4 deferred presentment provider on or before the expiration date
5 of the registration period automatically expires. A renewal
6 declaration of intent and fee, and a late fee of \$500, must be
7 filed within 60 calendar days after the expiration of an
8 existing registration in order for the declaration of intent
9 to be reinstated. If the registrant has not filed a renewal
10 declaration of intent within 60 days after the expiration date
11 of an existing registration, then a new declaration must be
12 filed with the department.

13 (5) No person shall be exempt from registration and
14 declaration if such person engages in deferred presentment
15 transactions, regardless of whether such person is currently
16 exempt from registration under any provision of this code.

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

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

23 (8) Each written agreement shall contain:

24 (a) The name or trade name, address, and telephone
25 number of the deferred presentment provider and the name and
26 title of the person who signs the agreement on behalf of the
27 deferred presentment provider.

28 (b) The date the deferred presentment transaction was
29 made.

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

31 (d) The length of deferral period.

1 (e) The address and telephone number of the
2 department.

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

5 (9) Every deferred presentment provider shall furnish
6 to the drawer a copy of the deferred presentment transaction
7 agreement.

8 (10) No deferred presentment provider shall require a
9 person to provide any additional security for the deferred
10 presentment transaction or any extension or require a person
11 to provide any additional guaranty from another person.

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

14 (a) A hold harmless clause;

15 (b) A confession of judgment clause;

16 (c) Any assignment of or order for payment of wages or
17 other compensation for services;

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

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

21 560.404 Rules.--A person may engage in deferred
22 presentment transactions, subject to the following:

23 (1) No deferred presentment provider shall charge fees
24 in excess of 10 percent of the amount financed. However, a
25 verification fee may be charged in accordance with s.
26 560.309(4) and the rules adopted pursuant to the code.

27 (2) Each deferred presentment provider shall
28 immediately provide the drawer with the full amount of any
29 check to be held, less only the fees permitted under this
30 section. However, no deferred presentment provider shall
31 provide a drawer with the face amount of the check to be held.

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

6 (4) For each deferred presentment transaction, the
7 deferred presentment provider must comply with the disclosure
8 requirements of 12 C.F.R., Part 226, the federal
9 Truth-in-Lending Act, and Regulation Z of the Board of
10 Governors of the Federal Reserve Board. A copy of the
11 disclosure must be provided to the drawer at the time the
12 deferred presentment transaction is initiated.

13 (5) No deferred presentment provider may accept or
14 hold an undated check or a check dated on a date other than
15 the date on which the deferred presentment provider agreed to
16 hold the check and signed the deferred presentment transaction
17 agreement.

18 (6) No deferred presentment agreement shall be for a
19 term in excess of 21 days or less than 14 days.

20 (7) Every deferred presentment provider shall hold the
21 drawer's check for the agreed number of days, unless the
22 drawer chooses to redeem the check before the agreed
23 presentment date.

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

26 (9) Proceeds in a deferred presentment transaction may
27 be made to the drawer in the form of the deferred presentment
28 provider's business check or money order if the deferred
29 presentment provider is licensed under part II; however, no
30 additional fee may be charged by a deferred presentment

31

1 provider for issuing or cashing the deferred presentment
2 provider's check.

3 (10) No deferred presentment provider may engage in
4 the rollover of any deferred presentment agreement. Two
5 business days after the termination of an existing deferred
6 presentment agreement, the drawer may enter into a separate
7 deferred presentment agreement with the same deferred
8 presentment provider or its affiliate. A deferred presentment
9 provider shall not redeem, extend, or otherwise consolidate a
10 deferred presentment agreement with the proceeds of another
11 deferred presentment transaction made by the same or an
12 affiliated deferred presentment provider.

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

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

29 (13) A deferred presentment provider shall provide a
30 notice in a prominent place on each deferred presentment
31

1 agreement in at least 16-point type in substantially the
2 following form:

3
4 NOTICE

5 YOU CANNOT BE PROSECUTED IN CRIMINAL COURT FOR A CHECK
6 WRITTEN UNDER THIS AGREEMENT, BUT ALL LEGALLY AVAILABLE
7 CIVIL MEANS TO ENFORCE THE DEBT MAY BE PURSUED AGAINST YOU.

8 STATE LAW PROHIBITS A REGISTRANT FROM ALLOWING YOU TO
9 ROLL-OVER YOUR DEFERRED PRESENTMENT TRANSACTION
10 WITH THE REGISTRANT. THIS MEANS THAT YOU CANNOT BE ASKED OR
11 REQUIRED TO PAY AN ADDITIONAL FEE IN ORDER TO FURTHER DELAY THE
12 DEPOSIT OR PRESENTMENT OF YOUR CHECK FOR PAYMENT.

13 STATE LAW PROHIBITS THIS REGISTRANT FROM ENTERING INTO ANOTHER
14 DEFERRED PRESENTMENT TRANSACTION WITH YOU UNTIL AT LEAST
15 48 HOURS AFTER THE CLOSING OF THIS TRANSACTION.

16 STATE LAW PROHIBITS YOU FROM HAVING MORE THAN 1 DEFERRED
17 PRESENTMENT AGREEMENT WITH THIS DEFERRED PRESENTMENT PROVIDER
18 OR AN AFFILIATE TOTALING MORE THAN \$500,
19 EXCLUSIVE OF FEES, OUTSTANDING AT ANY TIME.

20 FAILURE TO OBEY THIS LAW COULD CREATE SEVERE FINANCIAL
21 HARDSHIP FOR YOU AND YOUR FAMILY.

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

24 (15) If, at the end of the deferment period, the
25 drawer cannot redeem or pay in full in cash the amount due and
26 owing the deferred presentment provider, or if there are
27 insufficient available funds in the drawer's account, the
28 deferred presentment provider shall not deposit or present for
29 payment a check being held for deferred presentment before the
30 expiration of 60 days from the date of the deferred
31 presentment agreement. The deferred presentment provider may

1 rely upon the representation of the drawer as to the
2 sufficiency of funds in the drawer's account. No additional
3 fees or penalties shall be imposed on the drawer by virtue of
4 any misrepresentation made by the drawer as to the sufficiency
5 of funds in the drawer's account. In no event shall any
6 additional fees be added to the amounts due and owing to the
7 deferred presentment provider.

8 560.405 Deposit; redemption.--

9 (1) The deferred presentment provider shall not
10 present the drawer's check prior to the agreed-upon date of
11 presentment, as reflected in the deferred presentment
12 transaction agreement.

13 (2) Before a deferred presentment provider presents
14 the drawer's check, the check shall be endorsed with the
15 actual name under which the deferred presentment provider is
16 doing business.

17 (3) Notwithstanding the provisions of subsection (1),
18 in lieu of presentment, a deferred presentment provider may
19 allow the check to be redeemed at any time upon payment to the
20 deferred presentment provider in the amount of the face amount
21 of the drawer's check. However, payment may not be made in the
22 form of a personal check. Upon redemption, the deferred
23 presentment provider shall return the drawer's check that was
24 being held and provide a signed, dated receipt showing that
25 the drawer's check has been redeemed.

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

29 560.406 Worthless checks.--If a check is returned to a
30 deferred presentment provider from a payor financial
31 institution due to lack of funds, a closed account, or a

1 stop-payment order, the deferred presentment provider may seek
2 collection pursuant to s. 68.065, except a deferred
3 presentment provider shall not be entitled to collect treble
4 damages pursuant s. 68.065. The notice sent by a deferred
5 deposit provider pursuant to s. 68.065 shall not include any
6 references to treble damages and must clearly state that the
7 deferred presentment provider is not entitled to recover such
8 damages. Except as otherwise provided in this part, an
9 individual who issues a personal check to a deferred
10 presentment provider under a deferred presentment agreement is
11 not subject to criminal penalty. If a check is returned to a
12 deferred presentment provider from a payor financial
13 institution due to insufficient funds, a closed account, or a
14 stop-payment order, the deferred presentment provider may
15 pursue all legally available civil remedies to collect the
16 check, including, but not limited to, the imposition of all
17 charges imposed on the deferred presentment provider by any
18 financial institution. In its collection practices, a deferred
19 presentment provider shall comply with the prohibitions
20 against harassment or abuse, false or misleading
21 representations, and unfair practices, which are contained in
22 ss. 806, 807, and 808 of the Fair Debt Collections Practices
23 Act, 15 U.S.C. ss. 1692d, 1692e, 1692f. A violation of this
24 act is a deceptive and unfair trade practice and constitutes a
25 violation of the Deceptive and Unfair Trade Practices Act,
26 part II, of chapter 501. In addition, a deferred presentment
27 provider shall comply with the applicable provisions of part
28 VI of chapter 559, the Consumer Collection Practices Act,
29 including, but not limited to, the provisions of s. 559.77.

30 560.407 Records.--
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1 (1) Each registrant under this part must maintain all
2 books, accounts, records, and documents necessary to determine
3 the registrant's compliance with the provisions of the code.
4 Such books, accounts, records and documents shall be retained
5 for a period of at least 3 years unless a longer period is
6 expressly required by the department, the laws of this state,
7 or any federal law.

8 (2) The records required to be maintained by the code
9 or any rule adopted pursuant thereto may be maintained by the
10 registrant at any location within this state, provided that
11 the registrant notifies the department, in writing, of the
12 location of the records in its application or otherwise.

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

17 (4) The original of any record of a registrant
18 includes the data or other information comprising a record
19 stored or transmitted in or by means of any electronic,
20 computerized, mechanized, or other information storage or
21 retrieval or transmission system or device that can upon
22 request generate, regenerate, or transmit the precise data or
23 other information comprising the record. An original also
24 includes the visible data or other information so generated,
25 regenerated, or transmitted if it is legible or can be made
26 legible by enlargement or other process.

27 560.408 Legislative intent; report.--

28 (1) It is the intent of the Legislature to provide for
29 the regulation of deferred presentment transactions. It is
30 further the intent of the Legislature to prevent fraud, abuse,
31

1 and other unlawful activity associated with deferred
2 presentment transactions in part by:

3 (a) Providing for sufficient regulatory authority and
4 resources to monitor deferred presentment transactions.

5 (b) Preventing rollovers; and

6 (c) Regulating the allowable fees charged in
7 connection with a deferred presentment transaction.

8 (2) The Comptroller must submit a report to the
9 President of the Senate and the Speaker of the House of
10 Representatives on January 1, 2002, and January 1, 2003,
11 containing findings and conclusions concerning the
12 effectiveness of this act in preventing fraud, abuse, and
13 other unlawful activity associated with deferred presentment
14 transactions. The report may contain legislative
15 recommendations addressing the prevention of fraud, abuse, and
16 other unlawful activity associated with deferred presentment
17 transactions. Prior to filing the report, the Comptroller
18 shall consult with the Attorney General for the purpose of
19 including any recommendations or concerns expressed by the
20 Attorney General.

21 Section 13. Effective July 1, 2000, the sum of
22 \$150,000 is appropriated from the Regulatory Trust Fund of the
23 Department of Banking and Finance to the department for fiscal
24 year 2000-2001 to fund three positions for the purpose of
25 administering the provisions of the Deferred Presentment Act.

26 Section 14. Except as otherwise provided in this act,
27 this act shall take effect October 1, 2000.

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