

By the Committee on Governmental Oversight and Productivity;
and Senator Meek

302-2124-00

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, 560.407,
31 and 560.408, 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 that
14 counties and municipalities may enact more
15 restrictive ordinances; providing an
16 appropriation; providing effective dates.

17

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

19

20 Section 1. Paragraph (d) is added to subsection (4) of
21 section 560.103, Florida Statutes, and subsection (10) of that
22 section is amended, to read:

23 560.103 Definitions.--As used in the code, unless the
24 context otherwise requires:

25 (4) "Code" means the "Money Transmitters' Code,"
26 consisting of:

27 (d) Part IV of this chapter, relating to deferred
28 presentments.

29 (10) "Money transmitter" means any person located in
30 or doing business in this state who acts as a payment

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1 instrument seller, foreign currency exchanger, check casher,
2 ~~or funds transmitter, or deferred presentment provider.~~

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

7 560.114 Disciplinary actions.--

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

16 (1) Failure to pay any fee, charge, or fine under the
17 code.

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

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

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

29 (4) If any registration expires while administrative
30 charges are still pending against the deferred presentment
31

1 provider, the proceedings against the registrant shall
2 continue as if the registration were still in effect.

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

5 560.118 Examinations, reports, and internal audits;
6 penalty.--

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

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

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1 ~~(c) The department may recover the costs of a regular~~
2 ~~examination and supervision of a money transmitter or~~
3 ~~authorized vendor; however, the department may not recover the~~
4 ~~costs of more than one examination in any 12-month period~~
5 ~~unless the department has determined that the money~~
6 ~~transmitter or authorized vendor is operating in an unsafe or~~
7 ~~unsound or unlawful manner.~~

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

25 Section 4. Section 560.119, Florida Statutes, is
26 amended to read:

27 560.119 Deposit of fees and assessments.--The
28 application fees, registration renewal fees, ~~examination fees,~~
29 late payment penalties, civil penalties, administrative fines,
30 and other fees or penalties provided for in the code shall, in
31 all cases, be paid directly to the department, which shall

1 deposit such proceeds into the ~~Financial Institutions'~~
2 Regulatory Trust Fund. Each year, the Legislature shall
3 appropriate from the trust fund to the department sufficient
4 moneys to pay the department's costs for administration of the
5 code. The ~~Financial Institutions'~~Regulatory Trust Fund is
6 subject to the service charge imposed pursuant to chapter 215.

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

9 560.205 Qualifications of applicant for registration;
10 contents.--

11 (2) Each application for registration must be
12 submitted under oath to the department on such forms as the
13 department prescribes by rule and must be accompanied by a
14 nonrefundable application investigation fee. Such fee may not
15 exceed \$500 for each payment instrument seller or funds
16 transmitter and \$50 for each authorized vendor or branch
17 location and may be waived by the department for just cause.
18 The application forms shall set forth such information as the
19 department reasonably requires, including, but not limited to:

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

23 (b) The history of the applicant's material
24 litigation, criminal convictions, pleas of nolo contendere,
25 and cases of adjudication withheld.

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

30 (d) A list identifying the applicant's proposed
31 authorized vendors in this state, including the location or

1 | locations in this state at which the applicant and its
2 | authorized vendors propose to conduct registered activities.

3 | (e) A sample authorized vendor contract, if
4 | applicable.

5 | (f) A sample form of payment instrument, if
6 | applicable.

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

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

14 | Section 6. Section 560.206, Florida Statutes, is
15 | amended to read:

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

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1 Section 7. Section 560.207, Florida Statutes, is
2 amended to read:

3 560.207 Renewal of registration; registration fee.--

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

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

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

1 Section 8. Section 560.208, Florida Statutes, is
2 amended to read:

3 560.208 Conduct of business.--

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

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

19 Section 9. Section 560.307, Florida Statutes, is
20 amended to read:

21 560.307 Fees.--

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

30 (2) Each registrant shall notify the department,
31 within 60 days from the date of designation by the registrant,

1 of each authorized vendor or branch location. This
2 notification shall be accompanied by a nonrefundable \$50 fee
3 for each authorized vendor or branch location. This section
4 shall not apply to any authorized vendor or branch location
5 that has been designated by the registrant before the
6 effective date of this provision.

7 Section 10. Section 560.308, Florida Statutes, is
8 amended to read:

9 560.308 Registration terms; renewal; renewal fees.--

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

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

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

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

3 Section 11. Part IV of chapter 560, Florida Statutes,
4 consisting of sections 560.401, 560.402, 560.403, 560.404,
5 560.405, 560.406, 560.407, and 560.408, Florida Statutes, is
6 created to read:

7 PART IV

8 DEFERRED PRESENTMENT

9 560.401 Short title.--This part may be cited as the
10 "Deferred Presentment Act."

11 560.402 Definitions.--In addition to the definitions
12 provided in ss. 560.103, 560.202, and 560.302 and unless
13 otherwise clearly indicated by the context, for purposes of
14 this part:

15 (1) "Affiliate" means a person who directly or
16 indirectly through one or more intermediaries controls or is
17 controlled by, or is under common control with, a deferred
18 presentment provider.

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

21 (3) "Business day" means the hours during a particular
22 day during which a deferred presentment provider customarily
23 conducts business, not to exceed 15 consecutive hours during
24 that day.

25 (4) "Days" means calendar days.

26 (5) "Deferment period" means the number of days a
27 deferred presentment provider agrees to defer depositing or
28 presenting a payment instrument. A deferment period may not
29 exceed 31 days.

30 (6) "Deferred presentment provider" means a person who
31 engages in a deferred presentment transaction and is

1 registered under part II or part III of the code and has filed
2 a declaration of intent with the department.

3 (7) "Deferred presentment transaction" means providing
4 currency or a payment instrument in exchange for a person's
5 check and agreeing to hold that person's check for a period of
6 time prior to presentment, deposit, or redemption. A deferred
7 presentment transaction that complies with the provisions
8 contained in this part shall not be construed to be a loan
9 under state law.

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

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

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

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

26 560.403 Requirements of registration; declaration of
27 intent.--

28 (1) No person shall engage in a deferred presentment
29 transaction unless the person is registered under the
30 provisions of part II or part III and has on file with the
31 department a declaration of intent to engage in deferred

1 presentment transactions. The declaration of intent shall be
2 under oath and on such form as the department prescribes by
3 rule. The declaration of intent shall be filed together with
4 a nonrefundable filing fee of \$1,000. Any person who is
5 registered under part II or part III on the effective date of
6 this act and intends to engage in deferred presentment
7 transactions shall have 60 days after the effective date of
8 this act to file a declaration of intent.

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

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

24 (4) The license of a registrant under this part who
25 fails to timely renew his or her intent to engage in the
26 business of deferred presentment transactions or to act as a
27 deferred presentment provider on or before the expiration date
28 of the registration period automatically expires. A renewal
29 declaration of intent and fee, and a late fee of \$500, must be
30 filed within 60 calendar days after the expiration of an
31 existing registration in order for the declaration of intent

1 to be reinstated. If the registrant has not filed a renewal
2 declaration of intent within 60 days after the expiration date
3 of an existing registration, then a new declaration must be
4 filed with the department.

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

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

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

15 (8) Each written agreement shall contain:

16 (a) The name or trade name, address, and telephone
17 number of the deferred presentment provider and the name and
18 title of the person who signs the agreement on behalf of the
19 deferred presentment provider.

20 (b) The date the deferred presentment transaction was
21 made.

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

23 (d) The length of deferral period.

24 (e) The address and telephone number of the
25 department.

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

28 (9) Every deferred presentment provider shall furnish
29 to the drawer a copy of the deferred presentment transaction
30 agreement.

31

1 (10) No deferred presentment provider shall require a
2 person to provide any additional security for the deferred
3 presentment transaction or any extension or require a person
4 to provide any additional guaranty from another person.

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

7 (a) A hold harmless clause;

8 (b) A confession of judgment clause;

9 (c) Any assignment of or order for payment of wages or
10 other compensation for services;

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

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

14 560.404 Rules.--A person may engage in deferred
15 presentment transactions, subject to the following:

16 (1) No deferred presentment provider shall charge fees
17 in excess of 10 percent of the amount financed. However, a
18 verification fee may be charged in accordance with s.
19 560.309(4) and the rules adopted pursuant to the code.

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

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

30 (4) For each deferred presentment transaction, the
31 deferred presentment provider must comply with the disclosure

1 requirements of 12 C.F.R., Part 226, the federal
2 Truth-in-Lending Act, and Regulation Z of the Board of
3 Governors of the Federal Reserve Board. A copy of the
4 disclosure must be provided to the drawer at the time the
5 deferred presentment transaction is initiated.

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

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

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

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

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

28 (10) No deferred presentment provider may engage in
29 the rollover of any deferred presentment agreement. Two
30 business days after the termination of an existing deferred
31 presentment agreement, the drawer may enter into a separate

1 deferred presentment agreement with the same deferred
2 presentment provider or its affiliate. A deferred presentment
3 provider shall not redeem, extend, or otherwise consolidate a
4 deferred presentment agreement with the proceeds of another
5 deferred presentment transaction made by the same deferred
6 presentment provider.

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

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

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

27
28 NOTICE

29 STATE LAW PROHIBITS YOU FROM HAVING MORE THAN 1 DEFERRED
30 PRESENTMENT AGREEMENT WITH THIS DEFERRED PRESENTMENT PROVIDER
31 OR AN AFFILIATE TOTALING MORE THAN \$500,

1 EXCLUSIVE OF FEES, OUTSTANDING AT ANY TIME.
2 FAILURE TO OBEY THIS LAW COULD CREATE SEVERE FINANCIAL
3 HARDSHIP FOR YOU AND YOUR FAMILY.
4 (14) A deferred presentment provider shall charge only
5 those fees specifically authorized in this section.
6 (15) If, at the end of the deferment period, the
7 drawer cannot redeem or pay in full in cash the amount due and
8 owing the deferred presentment provider, or if there are
9 insufficient available funds in the drawer's account, the
10 deferred presentment provider shall not deposit or present for
11 payment a check being held for deferred presentment before the
12 expiration of 60 days from the date of the deferred
13 presentment agreement. The deferred presentment provider may
14 rely upon the representation of the drawer as to the
15 sufficiency of funds in the drawer's account. No additional
16 fees or penalties shall be imposed on the drawer by virtue of
17 any misrepresentation made by the drawer as to the sufficiency
18 of funds in the drawer's account. In no event shall any
19 additional fees be added to the amounts due and owing to the
20 deferred presentment provider.
21 560.405 Deposit; redemption.--
22 (1) The deferred presentment provider shall not
23 present the drawer's check prior to the agreed-upon date of
24 presentment, as reflected in the deferred presentment
25 transaction agreement.
26 (2) Before a deferred presentment provider presents
27 the drawer's check, the check shall be endorsed with the
28 actual name under which the deferred presentment provider is
29 doing business.
30 (3) Notwithstanding the provisions of subsection (1),
31 in lieu of presentment, a deferred presentment provider may

1 allow the check to be redeemed at any time upon payment to the
2 deferred presentment provider in the amount of the face amount
3 of the drawer's check. However, payment may not be made in the
4 form of a personal check. Upon redemption, the deferred
5 presentment provider shall return the drawer's check that was
6 being held and provide a signed, dated receipt showing that
7 the drawer's check has been redeemed.

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

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

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

12 560.407 Records.--

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

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

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

29 (4) The original of any record of a registrant
30 includes the data or other information comprising a record
31 stored or transmitted in or by means of any electronic,

1 computerized, mechanized, or other information storage or
2 retrieval or transmission system or device that can upon
3 request generate, regenerate, or transmit the precise data or
4 other information comprising the record. An original also
5 includes the visible data or other information so generated,
6 regenerated, or transmitted if it is legible or can be made
7 legible by enlargement or other process.

8 560.408 Authority of local governments.--Nothing in
9 this part precludes a county or municipality from adopting an
10 ordinance which is more restrictive than the provisions of
11 this part.

12 Section 12. Effective July 1, 2000, the sum of
13 \$150,000 is appropriated from the Regulatory Trust Fund of the
14 Department of Banking and Finance to the department for fiscal
15 year 2000-2001 to fund three positions for the purpose of
16 administering the provisions of the Deferred Presentment Act.

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

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 SB 2278
4 Adds definitions for commonly used deferred presentment
5 industry terms.
6 Adds registration and renewal requirements, including fees,
7 for deferred presentment providers.
8 Adds disclosure requirements for deferred presentment
9 agreements.
10 Permits a check to be deferred for up to 21 days, and allows
11 local governments to modify this deferment period.
12 Limits deferred presentment fees to 10% of the amount
13 financed.
14 Limits the amount that may be financed for a deferred
15 presentment transaction to \$500.
16 Prohibits a drawer from having more than one deferred
17 presentment agreement pending at any one time with a provider
18 or affiliate.
19 Requires a deferred presentment provider to maintain records.
20 Permits counties or municipalities to enact ordinances which
21 are more restrictive than the act.
22 Provides an appropriation to the Department of Banking and
23 Finance.
24 Provides for new violations of the "Money Transmitters' Code."
25 Provides late fees for registration renewals.
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