

Amendment No. 1 (for drafter's use only)

| | <u>Senate</u> | CHAMBER ACTION | <u>House</u> |
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ORIGINAL STAMP BELOW

The Committee on Financial Services offered the following:

Amendment (with title amendment)

Remove from the bill: Everything after the enacting clause and insert in lieu thereof:

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

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

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

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

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

Section 2. Paragraphs (l) and (m) are added to subsection (1) of section 560.114, Florida Statutes, paragraph

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1 (d) of subsection (2) of said section is amended, and
2 subsection (4) is added to said section, to read:

3 560.114 Disciplinary actions.--

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

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

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

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

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

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

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

31 560.118 Examinations, reports, and internal audits;

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1 penalty.

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

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

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

28 560.119 Deposit of fees and assessments.--

29 The application fees, registration renewal fees,
30 ~~examination fees~~, late payment penalties, civil penalties,
31 administrative fines, and other fees or penalties provided for

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

9 Section 5. Section 560.129, Florida Statutes, is
10 amended to read:

11 560.129 Confidentiality.--

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

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

17 ~~(a) The hearings and proceedings conducted under the
18 code pursuant to this part shall be closed and exempt from the
19 provisions of s. 286.011 and s. 24(b), Art. I of the State
20 Constitution, and documents related to such hearings and
21 proceedings shall be confidential and exempt from the
22 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
23 Constitution.~~

24 ~~(b) Orders of courts or of administrative law judges
25 for the production of confidential records or information
26 shall provide for inspection in camera by the court or the
27 administrative law judge and, after the court or
28 administrative law judge has made a determination that the
29 documents requested are relevant or would likely lead to the
30 discovery of admissible evidence, the documents shall be
31 subject to further orders by the court or the administrative~~

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1 law judge to protect the confidentiality thereof. Any order
2 directing the release of information shall be immediately
3 reviewable, and a petition by the department for review of
4 such order shall automatically stay further proceedings in the
5 trial court or the administrative hearing until the
6 disposition of such petition by the reviewing court. If any
7 other party files such a petition for review, it will operate
8 as a stay of such proceedings only upon order of the reviewing
9 court.

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

16 (3)~~(4)~~ Except for such portions of this section which
17 are otherwise public record, all records and information
18 relating to an investigation by the department under the code
19 are confidential and exempt from the provisions of s.
20 119.07(1) and s. 24(a), Art. I of the State Constitution,
21 until such investigation is completed or ceases to be active.
22 For purposes of this subsection, an investigation is
23 considered active while such investigation is being conducted
24 by the department with a reasonable, good faith belief that it
25 may lead to the filing of administrative, civil, or criminal
26 proceedings. An investigation does not cease to be active if
27 the department is proceeding with reasonable dispatch, and
28 there is a good faith belief that action may be initiated by
29 the department or other regulatory, administrative, or law
30 enforcement agency. After an investigation is completed or
31 ceases to be active, portions of such records relating to the

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1 investigation shall be confidential and exempt from the
2 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
3 Constitution, to the extent that disclosure would:

4 (a) Jeopardize the integrity of another active
5 investigation;

6 (b) Impair the safety and soundness of a money
7 transmitter or authorized vendor;

8 (c) Reveal personal financial information;

9 (d) Reveal the identity of a confidential source;

10 (e) Defame or cause unwarranted damage to the good
11 name or reputation, or jeopardize the safety, of a person; or

12 (f) Reveal investigative techniques or procedures.

13 ~~(4)~~(5) Except as otherwise provided in s. 560.121, and
14 except for such portions that are public record, reports of
15 examinations, operations, or conditions, including working
16 papers, or portions thereof, prepared by, or for the use of,
17 the department or any appropriate regulatory agency are
18 confidential and exempt from the provisions of s. 119.07(1)
19 and s. 24(a), Art. I of the State Constitution. However, such
20 reports or papers or portions thereof may be released to:

21 (a) The money transmitter under examination;

22 (b) Proposed purchasers if necessary to protect the
23 continued financial viability of the money transmitter;
24 however, the department shall notify the money transmitter
25 prior to releasing such documents;

26 (c) Persons proposing in good faith to acquire a
27 controlling interest in or to merge with the money
28 transmitter; however, the department shall obtain permission
29 from the money transmitter prior to releasing such documents;

30 (d) Any responsible person, officer, director,
31 employee, attorney, auditor, or independent auditor officially

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1 connected with the money transmitter, proposed purchaser, or
2 person seeking to acquire a controlling interest in or merge
3 with the money transmitter; however, the department shall
4 obtain permission from the money transmitter prior to
5 releasing such documents; or

6 (e) A bonding company, upon approval of the money
7 transmitter.

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

13 ~~(5)(6)~~ This section shall not prevent or restrict:

14 (a) Furnishing records or information to any
15 appropriate regulatory agency provided that such agency
16 adheres to the confidentiality provisions of the code;

17 (b) Disclosing or publishing summaries of the
18 condition of money transmitters as well as general economic
19 and similar statistics or data, provided that the identity of
20 a particular money transmitter is not disclosed and may not be
21 ascertained; or

22 (c) Reporting any suspected criminal activity, with
23 supporting documents and information, to appropriate law
24 enforcement or prosecutorial agencies.

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

30 ~~(6)(7)~~ All reports and records filed with the
31 department pursuant to s. 560.123 are confidential and exempt

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1 from the provisions of s. 119.07(1) and s. 24(a), Art. I of
2 the State Constitution. However, the department shall provide
3 any report filed pursuant to such section, or information
4 contained therein, to federal, state, and local law
5 enforcement and prosecutorial agencies, and to any federal or
6 state agency responsible for the regulation or supervision of
7 money transmitters.

8 ~~(7)(8)~~ Confidential records and information furnished
9 pursuant to a legislative subpoena shall be kept confidential
10 by the legislative body or committee that receives the records
11 or information, except in a case involving investigation of
12 charges against a public official subject to impeachment or
13 removal, and then disclosure of such information shall be only
14 to the extent determined to be necessary by the legislative
15 body or committee.

16 ~~(8)(9)~~ Examination reports, investigatory records,
17 applications, and related information compiled by the
18 department, or photographic copies thereof, shall be retained
19 by the department for a period of at least 10 years.

20 ~~(9)(10)~~ Any person who willfully discloses information
21 made confidential by this section commits a felony of the
22 third degree, punishable as provided in s. 775.082, s.
23 775.083, or s. 775.084.

24 ~~(10)(11)~~ The exemptions created in this section,
25 ~~pursuant to subsections (1)-(11)~~ for purposes of the Money
26 Transmitters' Code ~~in this chapter~~, as created by chapter
27 94-238, Laws of Florida, and chapter 94-354, Laws of Florida,
28 are exempt from the provisions of ss. 119.07(1) and 286.011
29 and s. 24(a) and (b), Art. I of the State Constitution.

30 Section 6. Subsection (2) of Section 560.205, Florida
31 Statutes, is amended to read:

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1 560.205 Qualifications of applicant for registration;
2 contents.--

3 (2) Each application for registration must be
4 submitted under oath to the department on such forms as the
5 department prescribes by rule and must be accompanied by a
6 nonrefundable application investigation fee. Such fee may not
7 exceed \$500 for each payment instrument seller or funds
8 transmitter and \$50 for each authorized vendor or branch
9 location.~~and may be waived by the department for just cause.~~
10 The application forms shall set forth such information as the
11 department reasonably requires, including, but not limited to:

12 Section 7. Section 560.206, Florida Statutes, is
13 amended to read:

14 560.206 Investigation of applicants.--

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

30 Section 8. Section 560.207, Florida Statutes, is
31 amended to read:

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1 560.207 Renewal of registration; registration fee.--

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

18 (3) Every registration renewal application shall also
19 include a 2-year registration fee of \$50 for each location
20 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 locations operating within this state.

23 Section 9. Section 560.208, Florida Statutes, is
24 amended to read:

25 560.208 Conduct of business.--

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

29 (2) Each registrant shall notify the Department,
30 within 60 days from the date of designation by the registrant,
31 of each authorized vendor or branch location. This

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

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

12 560.307 Fees.--

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

21 (2) Each registrant shall notify the Department,
22 within 60 days from the date of designation by the registrant,
23 of each authorized vendor or branch location. This
24 notification shall be accompanied by a nonrefundable \$50 fee
25 for each authorized vendor or branch location. This section
26 shall not apply to any authorized vendor or branch location
27 that has been designated by the registrant before the
28 effective date of this provision.

29 Section 11. Section 560.308, Florida Statutes, is
30 amended to read:

31 560.308 Registration terms; renewal; renewal fees.--

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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, and 560.407, Florida Statutes, is created to
17 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.

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

4 (4) "Days" means calendar days.

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

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

13 (7) "Deferred presentment transaction" means providing
14 currency or a payment instrument in exchange for a person's
15 check and agreeing to hold that person's check for a period of
16 time prior to presentment, deposit, or redemption. A deferred
17 presentment transaction that complies with the provisions
18 contained in this part shall not be construed to be a loan
19 under state law.

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

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

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

31 (11) "Termination of an existing deferred presentment

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1 agreement" occurs when the check which is the basis for the
2 agreement is presented for payment, is deposited, or is
3 redeemed by the drawer by payment in full in cash or a cash
4 equivalent to the deferred presentment provider.

5 560.403 Requirements of registration; declaration of
6 intent.--

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

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

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

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1 deferred presentment transactions or to act as a deferred
2 presentment provider.

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

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

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

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

25 (8) All written agreements shall contain:

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

30 (b) The date the deferred presentment transaction was
31 made.

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- 1 (c) The amount of the drawer's check.
2 (d) The length of deferral period.
3 (e) The address and telephone number of the
4 department.
5 (f) A clear description of the drawer's payment
6 obligations under the deferred presentment transaction.
7 (9) Every deferred presentment provider shall furnish
8 to the drawer a copy of the deferred presentment transaction
9 agreement.
10 (10) No deferred presentment provider shall require a
11 person to provide any additional security for the deferred
12 presentment transaction or any extension or require a person
13 to provide any additional guaranty from another person.
14 (11) A deferred presentment provider shall not include
15 any of the following provisions in any written agreement:
16 (a) A hold harmless clause;
17 (b) A confession of judgment clause;
18 (c) Any assignment of or order for payment of wages or
19 other compensation for services;
20 (d) A provision in which the drawer agrees not to
21 assert any claim or defense arising out of the agreement; or
22 (e) A waiver of any provision of this part.
23 560.404 Rules.--A person may engage in deferred
24 presentment transactions, subject to the following:
25 (1) No deferred presentment provider shall charge fees
26 in excess of 10 percent of the amount financed. However, a
27 verification fee may be charged in accordance with s.
28 560.309(4) and the rules promulgated pursuant to the code.
29 (2) Each deferred presentment provider shall
30 immediately provide the drawer with the full amount of any
31 check to be held, less only the fees permitted under this

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1 section. However, no deferred presentment provider shall
2 provide a drawer with the face amount of the check to be held.

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

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

13 (5) No deferred presentment agreement shall be for a
14 term in excess of 31 days.

15 (6) 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 (7) The fees authorized by this section may not be
20 collected before the drawer's check is presented or redeemed.

21 (8) 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 (9) No deferred presentment provider may engage in the
29 rollover of any deferred presentment agreement. Two business
30 days after the termination of an existing deferred presentment
31 agreement, the drawer may enter into a separate deferred

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

7 (10) 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 (11) 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. Each deferred presentment provider may
16 rely on a written representation of a drawer regarding the
17 existence of any outstanding checks for deferred presentment.

18 A deferred presentment provider shall not use any device or
19 agreement, including, but not limited to, agreements with or
20 referrals to other deferred presentment providers, to obtain
21 greater fees.

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

26
27 NOTICE
28 STATE LAW PROHIBITS YOU FROM HAVING MORE THAN 1 DEFERRED
29 PRESENTMENT AGREEMENT WITH THIS DEFERRED PRESENTMENT PROVIDER
30 OR AN AFFILIATE TOTALING MORE THAN \$500,
31 EXCLUSIVE OF FEES, OUTSTANDING AT ANY TIME.

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

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

5 560.405 Deposit; redemption.--

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

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

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

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

26 560.406 Worthless checks.--If a check is returned to a
27 deferred presentment provider from a payor financial
28 institution due to lack of funds, a closed account, or a
29 stop-payment order, the deferred presentment provider may seek
30 collection pursuant to s. 68.065, except a deferred
31 presentment provider shall not be entitled to collect treble

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1 damages pursuant s. 68.065. The notice sent by a deferred
2 deposit provider pursuant to s. 68.065 shall not include any
3 references to treble damages and must clearly state that the
4 deferred presentment provider is not entitled to recover such
5 damages. Except as otherwise provided in this part, an
6 individual who issues a personal check to a deferred
7 presentment provider under a deferred presentment agreement is
8 not subject to criminal penalty. If a check is returned to a
9 deferred presentment provider from a payor financial
10 institution due to insufficient funds, a closed account, or a
11 stop-payment order, the deferred presentment provider may
12 pursue all legally available civil remedies to collect the
13 check, including, but not limited to, the imposition of all
14 charges imposed on the deferred presentment provider by any
15 financial institution.

16 560.407 Records--

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

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

29 (3) A registrant shall make records available to the
30 department for examination and investigation in this state, as
31 permitted by the code, within 7 days after receipt of a

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1 written request.

2 (4) The original of any record of a registrant
3 includes the data or other information comprising a record
4 stored or transmitted in or by means of any electronic,
5 computerized, mechanized, or other information storage or
6 retrieval or transmission system or device that can upon
7 request generate, regenerate, or transmit the precise data or
8 other information comprising the record. An original also
9 includes the visible data or other information so generated,
10 regenerated, or transmitted if it is legible or can be made
11 legible by enlargement or other process.

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

18 Section 14. Except as otherwise provided herein, this
19 act shall take effect October 1, 2000.

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22 ===== T I T L E A M E N D M E N T =====

23 And the title is amended as follows:

24 On page 1, line 2,

25

26 insert in lieu thereof:

27 An act relating to deferred presentments;
28 amending s. 560.103, F.S.; revising
29 definitions; amending s. 560.114, F.S.;
30 providing additional grounds for disciplinary
31 action; providing for continuation of certain

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1 administrative proceedings under certain
2 circumstances; 560.118, F.S.; eliminating the
3 authority to assess examination fees; amending
4 s. 560.119, F.S.; revising the deposit of fees
5 and assessments; amending s. 560.129, F.S.;
6 deleting provisions providing public records
7 confidentiality for certain hearings,
8 proceedings, and emergency orders; amending s.
9 560.205, F.S.; adding a fee for authorized
10 vendor or branch locations; amending 560.206,
11 F.S.; amending the registration period;
12 amending s. 560.207, F.S.; conforming and
13 clarifying the fee for late renewals; amending
14 the renewal application fee; amending s.
15 560.208, F.S.; requiring notification of vendor
16 or branch locations; requiring a nonrefundable
17 fee and financial statement; amending s.
18 560.307, F.S.; applying the investigation fee
19 to check cashers and foreign currency exchanges
20 and adding a fee for authorized vendors or
21 branch locations; requiring notification of
22 vendor or branch locations; amending s.
23 560.308, F.S.; increasing the registration and
24 renewal fee for each registrant; clarifying the
25 fee to be charged for late renewal; creating
26 part IV, ch. 560, F.S., consisting of ss.
27 560.401, 560.402, 560.403, 560.404, 560.405,
28 560.406, and 560.407, F.S.; providing a short
29 title; providing definitions; providing
30 registration requirements for deferred
31 presentment transactions; providing for filing

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

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