

Amendment No. \_\_\_\_ (for drafter's use only)

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

The Committee on Fiscal Policy & Resources offered the following:

**Substitute Amendment for Amendment (593927) (with title amendment)**

On page 1, line 18, through Page 26, line 13 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 that 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

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

3 Section 2. Subsection (4) is added to section 560.111,  
4 Florida Statutes, to read:

5 560.111 Prohibited acts and practices.--

6 (4) Any person who willfully violates any provision of  
7 s. 560.403, s. 560.404, s. 560.405, or s. 560.407 commits a  
8 felony of the third degree, punishable as provided in s.  
9 775.082, s. 775.083, or s. 775.084.

10 Section 3. Paragraphs (w) and (x) are added to  
11 subsection (1) of section 560.114, Florida Statutes, to read:

12 560.114 Disciplinary actions.--

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

21 (w) Failure to pay any fee, charge, or fine under the  
22 code.

23 (x) Engaging or advertising engagement in the business  
24 of a money transmitter without a registration, unless the  
25 person is exempted from the registration requirements of the  
26 code.

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

29 560.118 Examinations, reports, and internal audits;  
30 penalty.--

31 (1)(a) The department may conduct an examination of a

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1 money transmitter or authorized vendor by providing not less  
2 than 15 days' advance notice to the money transmitter or  
3 authorized vendor. However, if the department suspects that  
4 the money transmitter or authorized vendor has violated any  
5 provisions of this code or any criminal laws of this state or  
6 of the United States or is engaging in an unsafe and unsound  
7 practice, the department may, at any time without advance  
8 notice, conduct an examination of all affairs, activities,  
9 transactions, accounts, business records, and assets of any  
10 money transmitter or any money transmitter-affiliated party  
11 for the protection of the public. For the purpose of  
12 examinations, the department may administer oaths and examine  
13 a money transmitter or any of its affiliated parties  
14 concerning their operations and business activities and  
15 affairs. The department may accept an audit or examination  
16 from any appropriate regulatory agency or from an independent  
17 third party with respect to the operations of a money  
18 transmitter or an authorized vendor. The department may also  
19 make a joint or concurrent examination with any state or  
20 federal regulatory agency. The department may furnish a copy  
21 of all examinations made of such money transmitter or  
22 authorized vendor to the money transmitter and any appropriate  
23 regulatory agency provided that such agency agrees to abide by  
24 the confidentiality provisions as set forth in chapter 119.

25 (b) Persons subject to this chapter who are examined  
26 shall make available to the department or its examiners the  
27 accounts, records, documents, files, information, assets, and  
28 matters which are in their immediate possession or control and  
29 which relate to the subject of the examination. Those  
30 accounts, records, documents, files, information, assets, and  
31 matters not in their immediate possession shall be made

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1 available to the department or the department's examiners  
2 within 10 days after actual notice is served on such persons.

3 (c) The audit of a money transmitter required under  
4 this section may be performed by an independent third party  
5 that has been approved by the department or by a certified  
6 public accountant authorized to do business in the United  
7 States. The examination of a money transmitter or authorized  
8 vendor required under this section may be performed by an  
9 independent third party that has been approved by the  
10 department or by a certified public accountant authorized to  
11 do business in the United States. The cost of such an  
12 independent examination or audit shall be directly borne by  
13 the money transmitter or authorized vendor.

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

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

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

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

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

20 Section 6. Subsection (2) of section 560.204, Florida  
21 Statutes, is amended to read:

22 560.204 Requirement of registration.--

23 (2) A person registered pursuant to this part is  
24 permitted to engage in the activities authorized by this part.  
25 A person registered pursuant to this part may also engage in  
26 the activities authorized under part III and is exempt from  
27 the registration fee required by s. 560.307.

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

30 560.205 Qualifications of applicant for registration;  
31 contents.--

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

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

14           (b) The history of the applicant's material  
15 litigation, criminal convictions, pleas of nolo contendere,  
16 and cases of adjudication withheld.

17           (c) A description of the activities conducted by the  
18 applicant, the applicant's history of operations, and the  
19 business activities in which the applicant seeks to engage in  
20 this state.

21           (d) A list identifying the applicant's proposed  
22 authorized vendors in this state, including the location or  
23 locations in this state at which the applicant and its  
24 authorized vendors propose to conduct registered activities.

25           (e) A sample authorized vendor contract, if  
26 applicable.

27           (f) A sample form of payment instrument, if  
28 applicable.

29           (g) The name and address of the clearing financial  
30 institution or financial institutions through which the  
31 applicant's payment instruments will be drawn or through which

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1 such payment instruments will be payable.

2 (h) Documents revealing that the net worth and bonding  
3 requirements specified in s. 560.209 have been or will be  
4 fulfilled.

5 Section 8. Section 560.206, Florida Statutes, is  
6 amended to read:

7 560.206 Investigation of applicants.--Upon the filing  
8 of a properly completed application, accompanied by the  
9 nonrefundable application fee and other required documents,  
10 the department shall investigate to ascertain whether the  
11 qualifications and requirements prescribed by this part have  
12 been met. If the department finds that the applicant meets  
13 such qualifications and requirements, the department shall  
14 issue the applicant a registration to engage in the business  
15 of selling payment instruments and transmitting funds in this  
16 state. Any registration issued under this part shall remain  
17 effective through April 30 of the second year following the  
18 date of issuance of the registration, not to exceed 24 months,  
19 unless during such period the registration is in effect  
20 ~~through April 30 next following its date of issuance unless~~  
21 ~~otherwise specified by the department or earlier surrendered,~~  
22 suspended, or revoked.

23 Section 9. Section 560.207, Florida Statutes, is  
24 amended to read:

25 560.207 Renewal of registration; registration fee.--

26 (1) Registration may be renewed for a 24-month period  
27 or the remainder of any such period without proration  
28 following the date of its expiration, upon the filing with the  
29 department of an application and other statements and  
30 documents as may reasonably be required of registrants by the  
31 department. However, the registrant must remain qualified for

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1 such registration under the provisions of this part.

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 the expiration date  
7 of April 30 ~~March 31~~. If the renewal application is filed  
8 prior to the expiration date of an existing registration, no  
9 late investigation fee shall be paid in connection with such  
10 renewal application. If the renewal application is filed  
11 within 60 calendar days after the expiration date of an  
12 existing registration, then, in addition to the \$1,000 renewal  
13 fee, the renewal application shall be accompanied by a  
14 nonrefundable late fee of \$500 ~~investigation fee pursuant to~~  
15 ~~s. 560.205(2)~~. If the registrant has not filed a renewal  
16 application within 60 calendar days after the expiration date  
17 of an existing registration, a new application shall be filed  
18 with the department pursuant to s. 560.205.

19 (3) Every registration renewal application shall also  
20 include a 2-year registration renewal fee of \$50 for each  
21 authorized vendor or location operating within this state or,  
22 at the option of the registrant, a total 2-year renewal fee of  
23 ~~\$20,000~~ \$5,000 may be paid to renew the registration of  
24 register all such locations currently registered at the time  
25 of renewal ~~operating within this state~~.

26 Section 10. Section 560.208, Florida Statutes, is  
27 amended to read:

28 560.208 Conduct of business.--

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

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1           (2) Within 60 days after the date a registrant either  
2 opens a location within this state or authorizes an authorized  
3 vendor to operate on the registrant's behalf within this  
4 state, the registrant shall notify the department on a form  
5 prescribed by the department by rule. The notification shall  
6 be accompanied by a nonrefundable \$50 fee for each authorized  
7 vendor or location. Each notification shall also be  
8 accompanied by a financial statement demonstrating compliance  
9 with s. 560.209(1), unless compliance has been demonstrated by  
10 a financial statement filed with the registrant's quarterly  
11 report in compliance with s. 560.118(2). The financial  
12 statement must be dated within 90 days of the date of  
13 designation of the authorized vendor or location. This  
14 subsection shall not apply to any authorized vendor or  
15 location that has been designated by the registrant before  
16 October 1, 2001.

17           (3) Within 60 days after the date a registrant closes  
18 a location within this state or withdraws authorization for an  
19 authorized vendor to operate on the registrant's behalf within  
20 this state, the registrant shall notify the department on a  
21 form prescribed by the department by rule.

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

24           560.307 Fees.--

25           (1) The application shall be filed together with a  
26 nonrefundable application investigation fee of that shall be  
27 established by department rule; however, the investigation fee  
28 may not exceed \$250 for each check casher or foreign currency  
29 exchanger and \$50 for each authorized vendor or location  
30 operating within this state. Such investigation fee shall  
31 satisfy the fee requirement for the first year of registration

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1 ~~or the remaining part thereof.~~

2       (2) Within 60 days after the date a registrant either  
3 opens a location within this state or authorizes an authorized  
4 vendor to operate on the registrant's behalf within this  
5 state, the registrant shall notify the department on a form  
6 prescribed by the department by rule. The notification shall  
7 be accompanied by a nonrefundable \$50 fee for each authorized  
8 vendor or location. This subsection shall not apply to any  
9 authorized vendor or location that has been designated by the  
10 registrant before October 1, 2001.

11       (3) Within 60 days after the date a registrant closes  
12 a location within this state or withdraws authorization for an  
13 authorized vendor to operate on the registrant's behalf within  
14 this state, the registrant shall notify the department on a  
15 form prescribed by the department by rule.

16       Section 12. Section 560.308, Florida Statutes, is  
17 amended to read:

18       560.308 Registration terms; renewal; renewal fees.--

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

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

29       (3) In addition to the renewal fee required by  
30 subsection (2), each registrant must ~~register and~~ pay a 2-year  
31 \$50 registration renewal fee of \$50 for each authorized vendor

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1 or location, including any authorized vendors, operating  
2 within this state or, at the option of the registrant, a total  
3 2-year renewal fee of \$20,000~~\$5,000~~ may be paid to renew the  
4 registration of register all such operating locations  
5 currently registered at the time of renewal within this state.

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

16 Section 13. Part IV of chapter 560, Florida Statutes,  
17 consisting of sections 560.401, 560.402, 560.403, 560.404,  
18 560.405, 560.406, 560.407, and 560.408, Florida Statutes, is  
19 created to read:

20 PART IV

21 DEFERRED PRESENTMENT

22 560.401 Short title.--This part may be cited as the  
23 "Deferred Presentment Act."

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

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

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1           (2) "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           (3) "Days" means calendar days.

6           (4) "Deferment period" means the number of days a  
7 deferred presentment provider agrees to defer depositing or  
8 presenting a payment instrument.

9           (5) "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           (6) "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.

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

19           (8) "Rollover" means the termination or extension of  
20 an existing deferred presentment agreement by the payment of  
21 any additional fee and the continued holding of the check, or  
22 the substitution of a new check drawn by the drawer pursuant  
23 to a new deferred presentment agreement.

24           (9) "Fee" means the fee authorized for the deferral of  
25 the presentation of a check pursuant to this part.

26           (10) "Termination of an existing deferred presentment  
27 agreement" means that the check that is the basis for an  
28 agreement is redeemed by the drawer by payment in full in  
29 cash, or is deposited and the deferred presentment provider  
30 has evidence that such check has cleared. A verification of  
31 sufficient funds in the drawer's account by the deferred

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1 presentment provider shall not be sufficient evidence to deem  
2 the existing deferred deposit transaction to be terminated.

3 (11) "Extension of an existing deferred presentment  
4 agreement" means that a deferred presentment transaction is  
5 continued by the drawer paying any additional fees and the  
6 deferred presentment provider continues to hold the check for  
7 another period of time prior to deposit, presentment, or  
8 redemption.

9 560.403 Requirements of registration; declaration of  
10 intent.--

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

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

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1 III.

2 (3) A registrant under this part who fails to timely  
3 renew his or her intent to engage in the business of deferred  
4 presentment transactions or to act as a deferred presentment  
5 provider shall immediately cease to engage in the business of  
6 deferred presentment transactions or to act as a deferred  
7 presentment provider.

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

20 (5) No person, other than a financial institution as  
21 defined in s. 655.005, shall be exempt from registration and  
22 declaration if such person engages in deferred presentment  
23 transactions, regardless of whether such person is currently  
24 exempt from registration under any provision of this code.

25 560.404 Requirements for deferred presentment  
26 transactions.--

27 (1) Every deferred presentment transaction shall be  
28 documented in a written agreement signed by both the deferred  
29 presentment provider and the drawer.

30 (2) The deferred presentment transaction agreement  
31 shall be executed on the day the deferred presentment provider

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1 furnishes currency or a payment instrument to the drawer.  
2 (3) Each written agreement shall contain the following  
3 information, in addition to any information the department  
4 requires by rule:  
5 (a) The name or trade name, address, and telephone  
6 number of the deferred presentment provider and the name and  
7 title of the person who signs the agreement on behalf of the  
8 deferred presentment provider.  
9 (b) The date the deferred presentment transaction was  
10 made.  
11 (c) The amount of the drawer's check.  
12 (d) The length of deferral period.  
13 (e) The last day of the deferment period.  
14 (f) The address and telephone number of the  
15 department.  
16 (g) A clear description of the drawer's payment  
17 obligations under the deferred presentment transaction.  
18 (h) The transaction number assigned by the  
19 department's database.  
20 (4) Every deferred presentment provider shall furnish  
21 to the drawer a copy of the deferred presentment transaction  
22 agreement.  
23 (5) The face amount of a check taken for deferred  
24 presentment may not exceed \$500 exclusive of the fees allowed  
25 by this part.  
26 (6) No deferred presentment provider or its affiliate  
27 shall charge fees in excess of 10 percent of the currency or  
28 payment instrument provided. However, a verification fee may  
29 be charged in accordance with s. 560.309(4) and the rules  
30 adopted pursuant to the code. The 10-percent fee may not be  
31 applied to the verification fee. A deferred presentment

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1 provider may charge only those fees specifically authorized in  
2 this section.

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

5 (8) No deferred presentment agreement shall be for a  
6 term in excess of 31 days or less than 7 days.

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

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

13 (a) A hold harmless clause;

14 (b) A confession of judgment clause;

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

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

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

20 (11) 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.

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

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

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

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

15 (16) Proceeds in a deferred presentment transaction  
16 may be made to the drawer in the form of the deferred  
17 presentment provider's payment instrument if the deferred  
18 presentment provider is registered under part II; however, no  
19 additional fee may be charged by a deferred presentment  
20 provider or its affiliate for issuing or cashing the deferred  
21 presentment provider's payment instrument.

22 (17) No deferred presentment provider may require the  
23 drawer to accept its payment instrument in lieu of currency.

24 (18) No deferred presentment provider or its affiliate  
25 may engage in the rollover of any deferred presentment  
26 agreement. A deferred presentment provider shall not redeem,  
27 extend, or otherwise consolidate a deferred presentment  
28 agreement with the proceeds of another deferred presentment  
29 transaction made by the same or an affiliated deferred  
30 presentment provider.

31 (19) A deferred presentment provider may not enter

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1 into a deferred presentment transaction with a person who has  
2 an outstanding deferred presentment transaction with that  
3 provider or with any other deferred presentment provider, or  
4 with a person whose previous deferred presentment transaction  
5 with that provider or with any other provider has been  
6 terminated for less than 24 hours. The deferred presentment  
7 provider must verify such information as follows:

8 (a) The deferred presentment provider shall maintain a  
9 common database and shall verify whether that deferred  
10 presentment provider or an affiliate has an outstanding  
11 deferred presentment transaction with a particular person or  
12 has terminated a transaction with that person within the  
13 previous 24 hours.

14 (b) The deferred presentment provider shall access the  
15 department's database established pursuant to subsection (23)  
16 and shall verify whether any other deferred presentment  
17 provider has an outstanding deferred presentment transaction  
18 with a particular person or has terminated a transaction with  
19 that person within the previous 24 hours. Prior to the time  
20 that the department has implemented such a database, the  
21 deferred presentment provider may rely upon the written  
22 verification of the drawer as provided in subsection (20).

23 (20) A deferred presentment provider shall provide the  
24 following notice in a prominent place on each deferred  
25 presentment agreement in at least 14-point type in  
26 substantially the following form and must obtain the signature  
27 of the drawer where indicated:

28  
29 NOTICE

30 1. STATE LAW PROHIBITS YOU FROM HAVING MORE  
31 THAN ONE DEFERRED PRESENTMENT AGREEMENT AT ANY

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1           ONE TIME. STATE LAW ALSO PROHIBITS YOU FROM  
 2           ENTERING INTO A DEFERRED PRESENTMENT AGREEMENT  
 3           WITHIN 24 HOURS OF TERMINATING ANY PREVIOUS  
 4           DEFERRED PRESENTMENT AGREEMENT. FAILURE TO OBEY  
 5           THIS LAW COULD CREATE SEVERE FINANCIAL HARDSHIP  
 6           FOR YOU AND YOUR FAMILY.

7  
 8           YOU MUST SIGN THE FOLLOWING STATEMENT:  
 9           I DO NOT HAVE AN OUTSTANDING DEFERRED  
 10          PRESENTMENT AGREEMENT WITH ANY DEFERRED  
 11          PRESENTMENT PROVIDER AT THIS TIME. I HAVE NOT  
 12          TERMINATED A DEFERRED PRESENTMENT AGREEMENT  
 13          WITHIN THE PAST 24 HOURS.

14          (Signature of Drawer)

15  
 16          2. YOU CANNOT BE PROSECUTED IN CRIMINAL COURT  
 17          FOR A CHECK WRITTEN UNDER THIS AGREEMENT, BUT  
 18          ALL LEGALLY AVAILABLE CIVIL MEANS TO ENFORCE  
 19          THE DEBT MAY BE PURSUED AGAINST YOU.

20  
 21          3. STATE LAW PROHIBITS A DEFERRED PRESENTMENT  
 22          PROVIDER (THIS BUSINESS) FROM ALLOWING YOU TO  
 23          "ROLL OVER" YOUR DEFERRED PRESENTMENT  
 24          TRANSACTION. THIS MEANS THAT YOU CANNOT BE  
 25          ASKED OR REQUIRED TO PAY AN ADDITIONAL FEE IN  
 26          ORDER TO FURTHER DELAY THE DEPOSIT OR  
 27          PRESENTMENT OF YOUR CHECK FOR PAYMENT. IF YOU  
 28          INFORM THE PROVIDER IN PERSON THAT YOU CANNOT  
 29          COVER THE CHECK OR PAY IN FULL THE AMOUNT OWING  
 30          AT THE END OF THE TERM OF THIS AGREEMENT, YOU  
 31          WILL RECEIVE A GRACE PERIOD EXTENDING THE TERM

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1           OF THE AGREEMENT FOR AN ADDITIONAL 60 DAYS  
2           AFTER THE ORIGINAL TERMINATION DATE, WITHOUT  
3           ANY ADDITIONAL CHARGE. THE DEFERRED PRESENTMENT  
4           PROVIDER SHALL REQUIRE THAT YOU, AS A CONDITION  
5           OF OBTAINING THE GRACE PERIOD, COMPLETE  
6           CONSUMER CREDIT COUNSELING PROVIDED BY AN  
7           AGENCY INCLUDED ON THE LIST THAT WILL BE  
8           PROVIDED TO YOU BY THIS PROVIDER. YOU MAY ALSO  
9           AGREE TO COMPLY WITH AND ADHERE TO A REPAYMENT  
10          PLAN APPROVED BY THAT AGENCY. IF YOU DO NOT  
11          COMPLY WITH AND ADHERE TO A REPAYMENT PLAN  
12          APPROVED BY THAT AGENCY, WE MAY DEPOSIT OR  
13          PRESENT YOUR CHECK FOR PAYMENT AND PURSUE ALL  
14          LEGALLY AVAILABLE CIVIL MEANS TO ENFORCE THE  
15          DEBT AT THE END OF THE 60-DAY GRACE PERIOD.

16  
17           (21) The deferred presentment provider may not deposit  
18          or present the drawer's check if the drawer informs the  
19          provider in person that the drawer cannot redeem or pay in  
20          full in cash the amount due and owing the deferred presentment  
21          provider. No additional fees or penalties may be imposed on  
22          the drawer by virtue of any misrepresentation made by the  
23          drawer as to the sufficiency of funds in the drawer's account.  
24          In no event shall any additional fees be added to the amounts  
25          due and owing to the deferred presentment provider.

26           (22)(a) If, by the end of the deferment period, the  
27          drawer informs the deferred presentment provider in person  
28          that the drawer cannot redeem or pay in full in cash the  
29          amount due and owing the deferred presentment provider, the  
30          deferred presentment provider shall provide a grace period  
31          extending the term of the agreement for an additional 60 days

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1 after the original termination date, without any additional  
2 charge. The provider shall require that as a condition of  
3 providing this grace period, that within the first 7 days of  
4 the grace period the drawer make an appointment with a  
5 consumer credit counseling agency within 7 days after the end  
6 of the deferment period and complete the counseling by the end  
7 of the grace period. The drawer may agree to, comply with, and  
8 adhere to a repayment plan approved by the counseling agency.  
9 If the drawer agrees to comply with and adhere to a repayment  
10 plan approved by the counseling agency, the provider is also  
11 required to comply with and adhere to that repayment plan. The  
12 deferred presentment provider may not deposit or present the  
13 drawer's check for payment before the end of the 60-day grace  
14 period unless the drawer fails to comply with such conditions  
15 or the drawer fails to notify the provider of such compliance.  
16 Before each deferred presentment transaction, the provider may  
17 verbally advise the drawer of the availability of the grace  
18 period consistent with the provisions of the written notice in  
19 subsection (20), and shall not discourage the drawer from  
20 using the grace period.

21 (b) At the commencement of the grace period, the  
22 deferred presentment provider shall provide the drawer:

23 1. Verbal notice of the availability of the grace  
24 period consistent with the written notice in subsection (20).

25 2. A list of approved consumer credit counseling  
26 agencies prepared by the department. The department shall  
27 prepare the list by October 1, 2001. The department list shall  
28 include nonprofit consumer credit counseling agencies  
29 affiliated with the National Foundation for Credit Counseling  
30 which provide credit counseling services to Florida residents  
31 in person, by telephone, or through the internet. The

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1 department list must include phone numbers for the agencies,  
2 the counties served by the agencies, and indicate the agencies  
3 that provide telephone counseling and those that provide  
4 internet counseling. The department shall update the list at  
5 least once each year.

6 3. The following notice in at least 14-point type in  
7 substantially the following form:

8  
9 AS A CONDITION OF OBTAINING A GRACE PERIOD  
10 EXTENDING THE TERM OF YOUR DEFERRED PRESENTMENT  
11 AGREEMENT FOR AN ADDITIONAL 60 DAYS, UNTIL  
12 [date], WITHOUT ANY ADDITIONAL FEES, YOU MUST  
13 COMPLETE CONSUMER CREDIT COUNSELING PROVIDED BY  
14 AN AGENCY INCLUDED ON THE LIST THAT WILL BE  
15 PROVIDED TO YOU BY THIS PROVIDER. YOU MAY ALSO  
16 AGREE TO COMPLY WITH AND ADHERE TO A REPAYMENT  
17 PLAN APPROVED BY THE AGENCY. THE COUNSELING MAY  
18 BE IN-PERSON, BY TELEPHONE, OR THROUGH THE  
19 INTERNET. YOU MUST NOTIFY US WITHIN SEVEN (7)  
20 DAYS, BY [DATE], THAT YOU HAVE MADE AN  
21 APPOINTMENT WITH SUCH A CONSUMER CREDIT  
22 COUNSELING AGENCY. YOU MUST ALSO NOTIFY US  
23 WITHIN SIXTY (60) DAYS, BY [DATE], THAT YOU  
24 HAVE COMPLETED THE CONSUMER CREDIT COUNSELING.  
25 WE MAY VERIFY THIS INFORMATION WITH THE AGENCY.  
26 IF YOU FAIL TO PROVIDE EITHER THE 7-DAY OR  
27 60-DAY NOTICE, OR IF YOU HAVE NOT MADE THE  
28 APPOINTMENT OR COMPLETED THE COUNSELING WITHIN  
29 THE TIME REQUIRED, WE MAY DEPOSIT OR PRESENT  
30 YOUR CHECK FOR PAYMENT AND PURSUE ALL LEGALLY  
31 AVAILABLE CIVIL MEANS TO ENFORCE THE DEBT.

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1  
2       (c) If a drawer completes an approved payment plan,  
3 the deferred presentment provider shall pay one-half of the  
4 drawer's fee for the deferred presentment agreement to the  
5 consumer credit counseling agency.

6       (23) On or before March 1, 2002, the department shall  
7 implement a common database with real-time access through an  
8 internet connection for deferred presentment providers, as  
9 provided in this subsection. The database must be accessible  
10 to the department and the deferred presentment providers to  
11 verify whether any deferred presentment transactions are  
12 outstanding for a particular person. Deferred presentment  
13 providers shall submit such data before entering into each  
14 deferred presentment transaction in such format as the  
15 department shall require by rule, including the drawer's name,  
16 social security number or employment authorization alien  
17 number, address, driver's license number, amount of the  
18 transaction, date of transaction, the date that the  
19 transaction is closed, and such additional information as is  
20 required by the department. The department may impose a fee  
21 not to exceed \$1 per transaction for data required to be  
22 submitted by a deferred presentment provider. A deferred  
23 presentment provider may rely on the information contained in  
24 the database as accurate and is not subject to any  
25 administrative penalty or civil liability as a result of  
26 relying on inaccurate information contained in the database.  
27 The department may adopt rules to administer and enforce the  
28 provisions of this section and to assure that the database is  
29 used by deferred presentment providers in accordance with this  
30 section.

31       560.405 Deposit; redemption.--

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1           (1) The deferred presentment provider or its affiliate  
2 shall not present the drawer's check prior to the agreed-upon  
3 date of presentment, as reflected in the deferred presentment  
4 transaction agreement.

5           (2) Before a deferred presentment provider presents  
6 the drawer's check, the check shall be endorsed with the  
7 actual name under which the deferred presentment provider is  
8 doing business.

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

18           (4) No drawer can be required to redeem his or her  
19 check prior to the agreed-upon date; however, the drawer may  
20 choose to redeem the check before the agreed-upon presentment  
21 date.

22           560.406 Worthless checks.--If a check is returned to a  
23 deferred presentment provider from a payor financial  
24 institution due to lack of funds, a closed account, or a  
25 stop-payment order, the deferred presentment provider may seek  
26 collection pursuant to s. 68.065, except a deferred  
27 presentment provider shall not be entitled to collect treble  
28 damages pursuant s. 68.065. The notice sent by a deferred  
29 deposit provider pursuant to s. 68.065 shall not include any  
30 references to treble damages and must clearly state that the  
31 deferred presentment provider is not entitled to recover such

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

23 560.407 Records.--

24 (1) Each registrant under this part must maintain all  
25 books, accounts, records, and documents necessary to determine  
26 the registrant's compliance with the provisions of the code.  
27 Such books, accounts, records, and documents shall be retained  
28 for a period of at least 3 years unless a longer period is  
29 expressly required by the department, the laws of this state,  
30 or any federal law.

31 (2) The records required to be maintained by the code

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1 or any rule adopted pursuant thereto may be maintained by the  
2 registrant at any location within this state, provided that  
3 the registrant notifies the department, in writing, of the  
4 location of the records in its application or otherwise.

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

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

19 560.408 Legislative intent; report.--

20 (1) It is the intent of the Legislature to provide for  
21 the regulation of deferred presentment transactions. It is  
22 further the intent of the Legislature to prevent fraud, abuse,  
23 and other unlawful activity associated with deferred  
24 presentment transactions in part by:

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

27 (b) Preventing rollovers.

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

30 (2) The Comptroller shall submit a report to the  
31 President of the Senate and the Speaker of the House of

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1 Representatives on January 1, 2003, and January 1, 2004,  
 2 containing findings and conclusions concerning the  
 3 effectiveness of this act in preventing fraud, abuse, and  
 4 other unlawful activity associated with deferred presentment  
 5 transactions. The report may contain legislative  
 6 recommendations addressing the prevention of fraud, abuse, and  
 7 other unlawful activity associated with deferred presentment  
 8 transactions. Prior to filing the report, the Comptroller  
 9 shall consult with the Attorney General for the purpose of  
 10 including any recommendations or concerns expressed by the  
 11 Attorney General.

12 Section 14. This act shall take effect October 1,  
 13 2001.

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

17 And the title is amended as follows:

18 On page 26, line 22, through page 28, line 10,  
 19 remove from the title of the bill: all of said lines,

20  
 21 and insert in lieu thereof:

22 An act relating to the Money Transmitter's  
 23 Code; amending s. 560.103, F.S.; revising  
 24 definitions; amending s. 560.111, F.S.;  
 25 providing penalties for specified violations of  
 26 the deferred presentment act; amending s.  
 27 560.114, F.S.; providing additional grounds for  
 28 disciplinary action; providing for continuation  
 29 of certain administrative proceedings under  
 30 certain circumstances; amending s. 560.118,  
 31 F.S.; eliminating the authority to assess

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1 examination fees; amending s. 560.119, F.S.;  
2 revising the deposit of fees and assessments;  
3 amending s. 560.204, F.S.; clarifying exemption  
4 from registration fees under part III of ch.  
5 560, F.S.; amending s. 560.205, F.S.; adding a  
6 fee for authorized vendor or branch locations;  
7 amending s. 560.206, F.S.; amending the  
8 registration period; amending s. 560.207, F.S.;  
9 conforming and clarifying the fee for late  
10 renewals; amending the renewal application fee;  
11 amending s. 560.208, F.S.; requiring  
12 notification of vendor or branch locations;  
13 requiring a nonrefundable fee and financial  
14 statement; amending s. 560.307, F.S.; applying  
15 the application fee to check cashers and  
16 foreign currency exchanges and adding a fee for  
17 authorized vendors or branch locations;  
18 requiring notification of vendor or branch  
19 locations; amending s. 560.308, F.S.;  
20 increasing the registration and renewal fee for  
21 each registrant; clarifying the fee to be  
22 charged for late renewal; creating part IV, ch.  
23 560, F.S., consisting of ss. 560.401, 560.402,  
24 560.403, 560.404, 560.405, 560.406, 560.407,  
25 and 560.408, F.S.; providing a short title;  
26 providing definitions; providing registration  
27 requirements for deferred presentment  
28 transactions; providing for filing fees;  
29 providing limitations; specifying requirements  
30 and limitations for engaging in deferred  
31 presentment transactions; providing

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1 prohibitions; providing for fees; providing  
 2 limitations; requiring certain notice;  
 3 specifying criteria and requirements for  
 4 deposit and redemption of a drawer's check;  
 5 providing procedures for recovering damages for  
 6 worthless checks; requiring maintenance of  
 7 records for a time certain; providing  
 8 legislative intent; requiring the Comptroller  
 9 to submit a report to the President of the  
 10 Senate and the Speaker of the House of  
 11 Representatives concerning the effectiveness of  
 12 this act; providing an effective date.

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