

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

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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The Committee on Banking offered the following:

Amendment (with title amendment)

On page 2, line 25,
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. Subsection (4) is added to section 560.111,

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1 Florida Statutes, to read:

2 560.111 Prohibited acts and practices.--

3 (4) Any person who is not a registered money
4 transmitter and is not otherwise exempt from this code and who
5 violates, or any registered money transmitter who willfully
6 violates, any provision of s. 560.403, s. 560.404, s. 560.405,
7 or s. 560.407 commits a felony of the third degree, punishable
8 as provided in s. 775.082, s. 775.083, or s. 775.084.

9 Section 3. Paragraphs (w) and (x) are added to
10 subsection (1) of section 560.114, Florida Statutes, and
11 subsection (5) is added to said section, 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 (5) If any registration expires while administrative
28 charges are still pending against the deferred presentment
29 provider, the proceedings against the registrant shall
30 continue as if the registration were still in effect.

31 Section 4. Subsection (1) of section 560.118, Florida

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1 Statutes, is amended to read:

2 560.118 Examinations, reports, and internal audits;
3 penalty.--

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

29 (b) Persons subject to this chapter who are examined
30 shall make available to the department or its examiners the
31 accounts, records, documents, files, information, assets, and

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1 matters which are in their immediate possession or control and
2 which relate to the subject of the examination. Those
3 accounts, records, documents, files, information, assets, and
4 matters not in their immediate possession shall be made
5 available to the department or the department's examiners
6 within 10 days after actual notice is served on such persons.

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

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

25 ~~(e) The department may, by rule, set a maximum per-day~~
26 ~~examination cost for a regular examination. Such per-day cost~~
27 ~~may be less than that required to fully compensate the~~
28 ~~department for costs associated with the examination. For the~~
29 ~~purposes of this section, "costs" means the salary and travel~~
30 ~~expenses directly attributable to the field staff examining~~
31 ~~the money transmitter or authorized vendor, and the travel~~

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1 ~~expenses of any supervisory staff required as a result of~~
2 ~~examination findings. Reimbursement for such costs incurred~~
3 ~~under this subsection must be postmarked no later than 30 days~~
4 ~~after the date of receipt of a notice stating that such costs~~
5 ~~are due. The department may levy a late payment penalty of up~~
6 ~~to \$100 per day or part thereof that a payment is overdue,~~
7 ~~unless the late payment penalty is excused for good cause. In~~
8 ~~excusing any such late payment penalty, the department may~~
9 ~~consider the prior payment history of the money transmitter or~~
10 ~~authorized vendor.~~

11 Section 5. Section 560.119, Florida Statutes, is
12 amended to read:

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

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

26 560.205 Qualifications of applicant for registration;
27 contents.--

28 (2) Each application for registration must be
29 submitted under oath to the department on such forms as the
30 department prescribes by rule and must be accompanied by a
31 nonrefundable application ~~investigation~~ fee. Such fee may not

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1 exceed \$500 for each payment instrument seller or funds
2 transmitter and \$50 for each authorized vendor or location
3 operating within this state and may be waived by the
4 department for just cause. The application forms shall set
5 forth such information as the department reasonably requires,
6 including, but not limited to:
7 (a) The name and address of the applicant, including
8 any fictitious or trade names used by the applicant in the
9 conduct of its business.
10 (b) The history of the applicant's material
11 litigation, criminal convictions, pleas of nolo contendere,
12 and cases of adjudication withheld.
13 (c) A description of the activities conducted by the
14 applicant, the applicant's history of operations, and the
15 business activities in which the applicant seeks to engage in
16 this state.
17 (d) A list identifying the applicant's proposed
18 authorized vendors in this state, including the location or
19 locations in this state at which the applicant and its
20 authorized vendors propose to conduct registered activities.
21 (e) A sample authorized vendor contract, if
22 applicable.
23 (f) A sample form of payment instrument, if
24 applicable.
25 (g) The name and address of the clearing financial
26 institution or financial institutions through which the
27 applicant's payment instruments will be drawn or through which
28 such payment instruments will be payable.
29 (h) Documents revealing that the net worth and bonding
30 requirements specified in s. 560.209 have been or will be
31 fulfilled.

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1 Section 7. Section 560.206, Florida Statutes, is
2 amended to read:

3 560.206 Investigation of applicants.--Upon the filing
4 of a properly completed application, accompanied by the
5 nonrefundable application fee and other required documents,
6 the department shall investigate to ascertain whether the
7 qualifications and requirements prescribed by this part have
8 been met. If the department finds that the applicant meets
9 such qualifications and requirements, the department shall
10 issue the applicant a registration to engage in the business
11 of selling payment instruments and transmitting funds in this
12 state. Any registration issued under this part shall remain
13 effective through April 30 of the second year following the
14 date of issuance of the registration, not to exceed 24 months,
15 unless during such period the registration is in effect
16 ~~through April 30 next following its date of issuance unless~~
17 ~~otherwise specified by the department or earlier surrendered,~~
18 suspended, or revoked.

19 Section 8. Section 560.207, Florida Statutes, is
20 amended to read:

21 560.207 Renewal of registration; registration fee.--

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

29 (2) All registration renewal applications shall be
30 accompanied by a renewal fee not to exceed \$1,000, ~~unless such~~
31 ~~fee is waived by the department.~~ All renewal applications must

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

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

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

24 560.208 Conduct of business.--

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

28 (2) Within 60 days after the date a registrant either
29 opens a location within this state or authorizes an authorized
30 vendor to operate on the registrant's behalf within this
31 state, the registrant shall notify the department on a form

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

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

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

20 560.307 Fees.--

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

29 (2) Within 60 days after the date a registrant either
30 opens a location within this state or authorizes an authorized
31 vendor to operate on the registrant's behalf within this

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1 state, the registrant shall notify the department on a form
2 prescribed by the department by rule. The notification shall
3 be accompanied by a nonrefundable \$50 fee for each authorized
4 vendor or location. This subsection shall not apply to any
5 authorized vendor or location that has been designated by the
6 registrant before October 1, 2001.

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

12 Section 11. Section 560.308, Florida Statutes, is
13 amended to read:

14 560.308 Registration terms; renewal; renewal fees.--

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

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

25 (3) In addition to the renewal fee required by
26 subsection (2), each registrant must ~~register and~~ pay a 2-year
27 ~~\$50~~ registration renewal fee of \$50 for each authorized vendor
28 or location, including any authorized vendors, operating
29 within this state or, at the option of the registrant, a total
30 2-year renewal fee of \$20,000 ~~\$5,000~~ may be paid to renew the
31 registration of ~~register~~ all such ~~operating~~ locations

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1 currently registered at the time of renewal within this state.

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

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

16 PART IV

17 DEFERRED PRESENTMENT

18 560.401 Short title.--This part may be cited as the
19 "Deferred Presentment Act."

20 560.402 Definitions.--In addition to the definitions
21 provided in ss. 560.103, 560.202, and 560.302 and unless
22 otherwise clearly indicated by the context, for purposes of
23 this part:

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

28 (2) "Business day" means the hours during a particular
29 day during which a deferred presentment provider customarily
30 conducts business, not to exceed 15 consecutive hours during
31 that day.

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1 (3) "Days" means calendar days.

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

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

9 (6) "Deferred presentment transaction" means providing
10 currency or a payment instrument in exchange for a person's
11 check and agreeing to hold that person's check for a period of
12 time prior to presentment, deposit, or redemption.

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

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

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

22 (10) "Termination of an existing deferred presentment
23 agreement" means that the check that is the basis for an
24 agreement is redeemed by the drawer by payment in full in
25 cash, or is deposited and the deferred presentment provider
26 has evidence that such check has cleared. A verification of
27 sufficient funds in the drawer's account by the deferred
28 presentment provider shall not be sufficient evidence to deem
29 the existing deferred deposit transaction to be terminated.

30 (11) "Extension of an existing deferred presentment
31 agreement" means that a deferred presentment transaction is

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1 continued by the drawer paying any additional fees and the
2 deferred presentment provider continues to hold the check for
3 another period of time prior to deposit, presentment, or
4 redemption.

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

19 560.404 Requirements for deferred presentment
20 transactions.--

21 (1) Every deferred presentment transaction shall be
22 documented in a written agreement signed by both the deferred
23 presentment provider and the drawer.

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

27 (3) Each written agreement shall contain:

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

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1 (b) The date the deferred presentment transaction was
2 made.

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

4 (d) The length of deferral period.

5 (e) The date the deferred presentment transaction is
6 due.

7 (f) The address and telephone number of the
8 department.

9 (g) A clear description of the drawer's payment
10 obligations under the deferred presentment transaction.

11 (4) Every deferred presentment provider shall furnish
12 to the drawer a copy of the deferred presentment transaction
13 agreement.

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

17 (6) No deferred presentment provider or its affiliate
18 shall charge fees in excess of 10 percent of the currency or
19 payment provided. However, a verification fee may be charged
20 in accordance with s. 560.309(4) and the rules adopted
21 pursuant to the code. The 10-percent fee may not be applied to
22 the verification fee. A deferred presentment provider may
23 charge only those fees specifically authorized in this
24 section.

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

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

29 (9) No deferred presentment provider shall require a
30 person to provide any additional security for the deferred
31 presentment transaction or any extension or require a person

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1 to provide any additional guaranty from another person.

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

4 (a) A hold harmless clause;

5 (b) A confession of judgment clause;

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

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

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

11 (11) Each deferred presentment provider shall
12 immediately provide the drawer with the full amount of any
13 check to be held, less only the fees permitted under this
14 section.

15 (12) The deferred presentment agreement and drawer's
16 check shall bear the same date, and the number of days shall
17 be calculated from this date. No deferred presentment provider
18 or person may alter or delete the date on any written
19 agreement or check held by the deferred presentment provider.

20 (13) For each deferred presentment transaction, the
21 deferred presentment provider must comply with the disclosure
22 requirements of 12 C.F.R., Part 226, the federal
23 Truth-in-Lending Act, and Regulation Z of the Board of
24 Governors of the Federal Reserve Board. A copy of the
25 disclosure must be provided to the drawer at the time the
26 deferred presentment transaction is initiated.

27 (14) No deferred presentment provider or its affiliate
28 may accept or hold an undated check or a check dated on a date
29 other than the date on which the deferred presentment provider
30 agreed to hold the check and signed the deferred presentment
31 transaction agreement.

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1 (15) Every deferred presentment provider shall hold
2 the drawer's check for the agreed number of days, unless the
3 drawer chooses to redeem the check before the agreed
4 presentment date.

5 (16) Proceeds in a deferred presentment transaction
6 may be made to the drawer in the form of the deferred
7 presentment provider's payment instrument if the deferred
8 presentment provider is registered under part II; however, no
9 additional fee may be charged by a deferred presentment
10 provider or its affiliate for issuing or cashing the deferred
11 presentment provider's payment instrument.

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

14 (18) No deferred presentment provider or its affiliate
15 may engage in the rollover of any deferred presentment
16 agreement. A deferred presentment provider shall not redeem,
17 extend, or otherwise consolidate a deferred presentment
18 agreement with the proceeds of another deferred presentment
19 transaction made by the same or an affiliated deferred
20 presentment provider.

21 (19) A deferred presentment provider may not enter
22 into a deferred presentment transaction with a person who has
23 an outstanding deferred presentment transaction with that
24 provider or with any other deferred presentment provider, or
25 with a person whose previous deferred presentment transaction
26 with that provider or with any other provider has been
27 terminated for less than 24 hours. The deferred presentment
28 provider must verify such information as follows:

29 (a) The deferred presentment provider shall maintain a
30 common database and shall verify whether that deferred
31 presentment provider or an affiliate has an outstanding

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1 deferred presentment transaction with a particular person or
2 has terminated a transaction with that person within the
3 previous 24 hours.

4 (b) The deferred presentment provider shall access the
5 department's database established pursuant to subsection (23)
6 and shall verify whether any other deferred presentment
7 provider has an outstanding deferred presentment transaction
8 with a particular person or has terminated a transaction with
9 that person within the previous 24 hours. Prior to the time
10 that the department has implemented such a database, the
11 deferred presentment provider may rely upon the written
12 verification of the drawer as provided in subsection (20).

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

18
19 NOTICE

20 1. STATE LAW PROHIBITS YOU FROM HAVING MORE
21 THAN ONE DEFERRED PRESENTMENT AGREEMENT AT ANY
22 ONE TIME. STATE LAW ALSO PROHIBITS YOU FROM
23 ENTERING INTO A DEFERRED PRESENTMENT AGREEMENT
24 WITHIN 24 HOURS AFTER TERMINATING ANY PREVIOUS
25 DEFERRED PRESENTMENT AGREEMENT. FAILURE TO OBEY
26 THIS LAW COULD CREATE SEVERE FINANCIAL HARDSHIP
27 FOR YOU AND YOUR FAMILY.

28
29 YOU MUST SIGN THE FOLLOWING STATEMENT:

30 I DO NOT HAVE AN OUTSTANDING DEFERRED
31 PRESENTMENT AGREEMENT WITH ANY DEFERRED

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1 PRESENTMENT PROVIDER AT THIS TIME. I HAVE NOT
2 TERMINATED A DEFERRED PRESENTMENT AGREEMENT
3 WITHIN THE PAST 24 HOURS.

4 (Signature of Drawer)

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

10
11 3. STATE LAW PROHIBITS A DEFERRED PRESENTMENT
12 PROVIDER (THIS BUSINESS) FROM ALLOWING YOU TO
13 "ROLL OVER" YOUR DEFERRED PRESENTMENT
14 TRANSACTION. THIS MEANS THAT YOU CANNOT BE
15 ASKED OR REQUIRED TO PAY AN ADDITIONAL FEE IN
16 ORDER TO FURTHER DELAY THE DEPOSIT OR
17 PRESENTMENT OF YOUR CHECK FOR PAYMENT. IF YOU
18 DO NOT HAVE SUFFICIENT FUNDS TO COVER THE CHECK
19 OR TO PAY IN FULL THE AMOUNT OWING AT THE END
20 OF THE TERM OF THIS AGREEMENT, YOU WILL BE
21 PROVIDED A GRACE PERIOD EXTENDING THE TERM OF
22 THE AGREEMENT FOR AN ADDITIONAL 60 DAYS AFTER
23 THE TERMINATION DATE, WITHOUT ANY ADDITIONAL
24 CHARGE. THE DEFERRED PRESENTMENT PROVIDER MAY
25 REQUIRE THAT YOU, AS A CONDITION OF OBTAINING
26 THE DEFERRAL, ATTEND A CONSUMER CREDIT
27 COUNSELING SERVICE AND COMPLY WITH A REPAYMENT
28 PLAN APPROVED BY THAT SERVICE.

29
30 (21) The deferred presentment provider may not deposit
31 or present the drawer's check if the drawer informs the

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1 provider that there are not sufficient funds to cover the
2 check. No additional fees or penalties may be imposed on the
3 drawer by virtue of any misrepresentation made by the drawer
4 as to the sufficiency of funds in the drawer's account. In no
5 event shall any additional fees be added to the amounts due
6 and owing to the deferred presentment provider.

7 (22)(a) If, at the end of the deferment period, the
8 drawer does not redeem or pay in full in cash the amount due
9 and owing the deferred presentment provider, or if there are
10 insufficient funds available in the drawer's account, the
11 deferred presentment provider shall provide a grace period
12 extending the term of the agreement for an additional 60 days
13 after the termination date, without any additional charge. The
14 provider may require, as a condition of providing this grace
15 period, that the drawer make an appointment with an approved
16 consumer credit counseling service within 7 days after the end
17 of the deferment period, complete the counseling within 60
18 days after the end of the deferment period, and comply with
19 any repayment plan approved by the counseling service. The
20 deferred presentment provider may not deposit or present the
21 drawer's check for payment unless:

22 1. The drawer fails to provide notice to the provider
23 within 7 days after the end of the deferment period that the
24 appointment has been made;

25 2. The provider is informed by the consumer credit
26 counseling service designated by the drawer that the drawer
27 has not made the appointment or has not completed the
28 counseling service within 60 days; or

29 3. The drawer does not comply with the repayment plan
30 approved by the credit counseling service.

31 (b) The deferred presentment provider shall provide

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1 the drawer with a list of approved consumer credit counseling
2 services prepared by the department. The department shall list
3 those consumer credit counseling services that are nonprofit,
4 affiliated with the National Foundation for Consumer Credit,
5 provide debt management counseling services free of charge or
6 on a sliding fee scale based on income, and agree to provide
7 services in accordance with this section.

8 (c) The deferred presentment provider shall provide
9 the following notice in at least 14-point type in
10 substantially the following form to a drawer who does not
11 redeem or pay in full in cash the amount due and owing at the
12 end of the deferment period:

13
14 AS A CONDITION OF OBTAINING A GRACE PERIOD
15 EXTENDING THE TERM OF YOUR DEFERRED PRESENTMENT
16 AGREEMENT FOR AN ADDITIONAL 60 DAYS, UNTIL
17 [date], WITHOUT ANY ADDITIONAL FEES, YOU MUST
18 ATTEND AN APPROVED CONSUMER CREDIT COUNSELING
19 SERVICE AND COMPLY WITH A REPAYMENT PLAN
20 APPROVED BY THE SERVICE. IF YOU ELECT THIS
21 OPTION, YOU MUST NOTIFY US WITHIN SEVEN (7)
22 DAYS, BY [DATE], THAT YOU HAVE MADE AN
23 APPOINTMENT WITH AN APPROVED CONSUMER CREDIT
24 COUNSELING SERVICE. YOU MUST ALSO NOTIFY US
25 WITHIN SIXTY (60) DAYS, BY [DATE], THAT YOU
26 HAVE COMPLETED THE CONSUMER CREDIT COUNSELING
27 SERVICE. IF YOU FAIL TO PROVIDE EITHER THE
28 7-DAY OR 60-DAY NOTICE, OR IF THE CONSUMER
29 CREDIT COUNSELING SERVICE YOU HAVE CHOSEN DOES
30 NOT VERIFY THAT YOU HAVE MADE THE APPOINTMENT
31 OR COMPLETED THE COUNSELING WITHIN THE TIME

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1 REQUIRED, WE MAY DEPOSIT OR PRESENT YOUR CHECK
2 FOR PAYMENT AND PURSUE ALL LEGALLY AVAILABLE
3 CIVIL MEANS TO ENFORCE THE DEBT.

4
5 (d) If a drawer completes an approved consumer credit
6 counseling service, the deferred presentment provider shall
7 pay one-half of the drawer's fee for the deferred presentment
8 agreement to the consumer credit counseling service.

9 (23) On or before March 1, 2002, the department shall
10 implement a common database with real-time access through a
11 toll-free connection for deferred presentment providers, as
12 provided in this subsection. The database must be accessible
13 to the department and the deferred presentment providers to
14 verify whether any deferred presentment transactions are
15 outstanding for a particular person. Deferred presentment
16 providers shall submit such data on each deferred presentment
17 transaction in such format as required by the department,
18 including the drawer's name, address, driver's license number,
19 amount of the transaction, date of transaction, the date that
20 the transaction is closed, and such additional information as
21 is required by the department. The department may impose a fee
22 not to exceed \$1 per transaction for data required to be
23 submitted by a deferred presentment provider. A deferred
24 presentment provider may rely on the information contained in
25 the database as accurate and is not liable or subject to
26 penalty as a result of inaccurate information contained in the
27 database. The department may adopt rules to administer and
28 enforce the provisions of this section and to assure that the
29 database is used by deferred presentment providers in
30 accordance with this 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 13. 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 1, line 2, through page 2, line 22,
 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. 560.205, F.S.; adding a fee for
4 authorized vendor or branch locations; amending
5 s. 560.206, F.S.; amending the registration
6 period; amending s. 560.207, F.S.; conforming
7 and clarifying the fee for late renewals;
8 amending the renewal application fee; amending
9 s. 560.208, F.S.; requiring notification of
10 vendor or branch locations; requiring a
11 nonrefundable fee and financial statement;
12 amending s. 560.307, F.S.; applying the
13 application fee to check cashers and foreign
14 currency exchangers and adding a fee for
15 authorized vendors or branch locations;
16 requiring notification of vendor or branch
17 locations; amending s. 560.308, F.S.;
18 increasing the registration and renewal fee for
19 each registrant; clarifying the fee to be
20 charged for late renewal; creating part IV, ch.
21 560, F.S., consisting of ss. 560.401, 560.402,
22 560.403, 560.404, 560.405, 560.406, 560.407,
23 and 560.408, F.S.; providing a short title;
24 providing definitions; providing registration
25 requirements for deferred presentment
26 transactions; providing for filing fees;
27 providing limitations; specifying requirements
28 and limitations for engaging in deferred
29 presentment transactions; providing
30 prohibitions; providing for fees; providing
31 limitations; requiring certain notice;

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

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