

By Senator Constantine

22-00121-09

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1 A bill to be entitled
 2 An act relating to the Money Transmitters' Code;
 3 creating s. 560.4031, F.S.; providing that any
 4 deferred presentment transaction entered into by a
 5 drawer with a nonexempt person who is not registered
 6 under ch. 560, F.S., is void; providing penalties and
 7 civil remedies; providing that it is a felony of the
 8 third degree to collect on any deferred presentment
 9 transaction known to be void; providing criminal
 10 penalties; providing an effective date.

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

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 14 Section 1. Section 560.4031, Florida Statutes, is created
 15 to read:

16 560.4031 Remedies for deferred presentment transactions
 17 engaged in without registration.-

18 (1) Any deferred presentment transaction entered into by a
 19 drawer with a person who is not exempt from this chapter and who
 20 is not registered under this chapter is void. In such cases, the
 21 person, or any agent, officer, or representative of the person,
 22 forfeits all moneys provided and fees charged to the drawer and
 23 may not collect any moneys or fees on the deferred presentment
 24 transaction.

25 (2) A drawer may recover in a civil action or arbitration
 26 three times the amount of the moneys and fees actually collected
 27 by a person pursuant to a deferred presentment transaction that
 28 is void under subsection (1).

29 (3) A deferred presentment transaction engaged in by a

22-00121-09

2009120__

30 prior registrant under this part whose registration has
31 inadvertently lapsed within the year preceding the date of the
32 transaction is not void under this section unless the prior
33 registrant continued to engage in such transactions knowing its
34 registration had lapsed.

35 (4) Any person who willfully attempts to collect on any
36 deferred presentment transaction that he or she knows to be void
37 under subsection (1) commits a felony of the third degree,
38 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

39 Section 2. This act shall take effect July 1, 2009.