



937894

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/29/2018	.	
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The Committee on Commerce and Tourism (Gibson) recommended the following:

1 **Senate Amendment to Amendment (478870) (with title**
2 **amendment)**

3
4 Delete lines 40 - 283
5 and insert:

6 (6) (a) A deferred presentment provider or its affiliate may
7 not directly or indirectly charge, collect, or receive interest,
8 fees, or other charges exceeding 30 percent per annum on the
9 principal amount, inclusive of ancillary products or services
10 incidental to or included in the deferred presentment



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11 transaction or deferred presentment installment transaction that
12 exceed 10 percent of the currency or payment instrument
13 provided. However, a verification fee may be charged as provided
14 in s. 560.309(8). The 10 percent fee may not be applied to the
15 verification fee.

16 (b) Fees are earned at the time of origination for a
17 deferred presentment transaction scheduled to be paid off in 31
18 days or less; however, fees for a deferred presentment
19 installment transaction are earned using a simple interest
20 calculation. A deferred presentment provider may charge only the
21 interest, these fees, and other charges specifically authorized
22 in this section. Prepayment penalties are prohibited.

23 (8) A deferred presentment agreement may not be for a term
24 longer than 31 days or fewer less than 7 days, except for a
25 deferred presentment installment transaction, which may not be
26 for a term longer than 90 days or fewer than 60 days.

27 (12) The deferred presentment agreement and the drawer's
28 initial check must bear the same date, and the number of days of
29 the deferment period must shall be calculated from that date.
30 For deferred presentment installment transactions, the deferred
31 presentment provider may accept additional checks, subject to
32 the limitations in subsection (5), each bearing the date that
33 the check was given to the provider, and the deferred
34 presentment agreement must include the deferment period
35 applicable to each check. The deferred presentment provider and
36 the drawer may not alter or delete the date on any written
37 agreement or check held by the deferred presentment provider.

38 (13) For each deferred presentment transaction, the
39 deferred presentment provider must comply with the disclosure



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40 requirements of 12 C.F.R. part 226, relating to the federal
41 Truth-in-Lending Act, and Regulation Z of the Bureau of Consumer
42 Financial Protection Board of Governors of the Federal Reserve
43 Board. A copy of the disclosure must be provided to the drawer
44 at the time the deferred presentment transaction is initiated.

45 (14) A deferred presentment provider or its affiliate may
46 not accept or hold an undated check or a check dated on a date
47 other than the date on which the deferred presentment provider
48 agreed to hold the check and signed the deferred presentment
49 transaction agreement, except when a customer provides a new
50 payment instrument reflecting the new outstanding transaction
51 balance and anticipated fees upon making a payment on a deferred
52 presentment installment transaction.

53 (19) A deferred presentment provider may not enter into a
54 deferred presentment transaction or a deferred presentment
55 installment transaction with a drawer if the drawer or any other
56 person in the drawer's household who has an outstanding deferred
57 presentment transaction or an outstanding deferred presentment
58 installment transaction with that provider or with any other
59 deferred presentment provider. A deferred presentment provider
60 may not enter into a deferred presentment transaction or a
61 deferred presentment installment transaction with a drawer if
62 the previous deferred presentment transaction or previous
63 deferred presentment installment transaction of a drawer or any
64 other person in the drawer's household terminated in the
65 previous 24 hours. As used in this section, the term "household"
66 means a person or group of persons living together in a room or
67 group of rooms as a housing unit, but the term does not include
68 persons boarding in or renting a portion of the dwelling, or



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69 ~~with a person whose previous deferred presentment transaction~~
70 ~~with that provider or with any other provider has been~~
71 ~~terminated for less than 24 hours.~~ The deferred presentment
72 provider must verify such information as follows:

73 (a) The deferred presentment provider must ~~shall~~ maintain a
74 common database and ~~shall~~ verify whether the provider or an
75 affiliate has an outstanding deferred presentment transaction
76 with any drawer in a particular household person or has
77 terminated a transaction with any drawer in that household
78 ~~person~~ within the previous 24 hours. If a provider has not
79 established a database, the provider may rely upon the written
80 verification of the drawer as provided in subsection (20).

81 (b) The deferred presentment provider must ~~shall~~ access the
82 office's database established pursuant to subsection (24) ~~(23)~~
83 and ~~shall~~ verify whether any other deferred presentment provider
84 has an outstanding deferred presentment transaction with any
85 drawer in a particular household person or has terminated a
86 transaction with any drawer in that household person within the
87 previous 24 hours. Before the office has implemented a database
88 to include deferred presentment installment transactions ~~If a~~
89 ~~provider has not established a database,~~ the deferred
90 presentment provider must access the office's current database
91 pursuant to this paragraph and may rely upon the written
92 verification of the drawer as provided in subsection (20).

93 (20) A deferred presentment provider must ~~shall~~ provide the
94 following notice in a prominent place on each deferred
95 presentment agreement in at least 14-point type in substantially
96 the following form and ~~must~~ obtain the signature of the drawer
97 where indicated:



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NOTICE

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

YOU MUST SIGN THE FOLLOWING STATEMENT:

NO PERSON IN MY HOUSEHOLD HAS ~~I DO NOT HAVE~~ AN OUTSTANDING DEFERRED PRESENTMENT AGREEMENT WITH ANY DEFERRED PRESENTMENT PROVIDER AT THIS TIME. NO PERSON IN MY HOUSEHOLD HAS ~~I HAVE NOT~~ TERMINATED A DEFERRED PRESENTMENT AGREEMENT WITHIN THE PAST 24 HOURS.

(Signature of Drawer)

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

3. STATE LAW PROHIBITS A DEFERRED PRESENTMENT PROVIDER (THIS BUSINESS) FROM ALLOWING YOU TO "ROLL OVER" YOUR DEFERRED PRESENTMENT TRANSACTION. THIS MEANS THAT YOU



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127 CANNOT BE ASKED OR REQUIRED TO PAY AN ADDITIONAL FEE
128 IN ORDER TO FURTHER DELAY THE DEPOSIT OR PRESENTMENT
129 OF YOUR CHECK FOR PAYMENT.
130

131 4. FOR DEFERRED PRESENTMENT TRANSACTIONS NOT REPAYABLE
132 IN INSTALLMENTS: IF YOU INFORM THE PROVIDER IN PERSON
133 THAT YOU CANNOT COVER THE CHECK OR PAY IN FULL THE
134 AMOUNT OWING AT THE END OF THE TERM OF THIS AGREEMENT,
135 YOU WILL RECEIVE A GRACE PERIOD EXTENDING THE TERM OF
136 THE AGREEMENT FOR AN ADDITIONAL 60 DAYS AFTER THE
137 ORIGINAL TERMINATION DATE, WITHOUT ANY ADDITIONAL
138 CHARGE. THE DEFERRED PRESENTMENT PROVIDER MUST ~~SHALL~~
139 REQUIRE THAT YOU, AS A CONDITION OF OBTAINING THE
140 GRACE PERIOD, COMPLETE CONSUMER CREDIT COUNSELING
141 PROVIDED BY AN AGENCY INCLUDED ON THE LIST THAT WILL
142 BE PROVIDED TO YOU BY THIS PROVIDER. YOU MAY ALSO
143 AGREE TO COMPLY WITH AND ADHERE TO A REPAYMENT PLAN
144 APPROVED BY THAT AGENCY. IF YOU DO NOT COMPLY WITH AND
145 ADHERE TO A REPAYMENT PLAN APPROVED BY THAT AGENCY, WE
146 MAY DEPOSIT OR PRESENT YOUR CHECK FOR PAYMENT AND
147 PURSUE ALL LEGALLY AVAILABLE CIVIL MEANS TO ENFORCE
148 THE DEBT AT THE END OF THE 60-DAY GRACE PERIOD.
149

150 5. FOR DEFERRED PRESENTMENT INSTALLMENT TRANSACTIONS:
151 IF YOU INFORM THE PROVIDER IN WRITING OR IN PERSON BY
152 NOON [TIME ZONE] OF THE BUSINESS DAY BEFORE A
153 SCHEDULED PAYMENT THAT YOU CANNOT PAY IN FULL THE
154 SCHEDULED AMOUNT DUE AND OWING, YOU MAY DEFER THE
155 SCHEDULED PAYMENT, WITHOUT ANY ADDITIONAL FEES OR



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156 CHARGES, AND THE PROVIDER MAY NOT DEFAULT THE ACCOUNT
157 AND ACCELERATE THE FULL BALANCE. YOU MAY REQUEST ONLY
158 ONE DEFERRED PAYMENT PER LOAN. THE DEFERRED PAYMENT
159 WILL BE ADDED AFTER THE LAST SCHEDULED PAYMENT AND IS
160 DUE AT AN INTERVAL NO SHORTER THAN THE INTERVALS
161 BETWEEN THE ORIGINALLY SCHEDULED PAYMENTS.

162
163 (21) The deferred presentment provider may not deposit or
164 present the drawer's check if the drawer informs the provider in
165 writing or in person that the drawer cannot redeem or pay in
166 full in cash the amount due and owing the deferred presentment
167 provider, unless the drawer fails to comply with subsection (22)
168 or subsection (23), as applicable. No additional fees or
169 penalties may be imposed on the drawer by virtue of any
170 misrepresentation made by the drawer as to the sufficiency of
171 funds in the drawer's account. Additional fees may not be added
172 to the amounts due and owing to the deferred presentment
173 provider.

174 (22) For deferred presentment transactions not repayable in
175 installments, if, by the end of the deferment period, the drawer
176 informs the deferred presentment provider in writing or in
177 person that the drawer cannot redeem or pay in full in cash the
178 amount due and owing the deferred presentment provider, the
179 deferred presentment provider must ~~shall~~ provide a grace period
180 extending the term of the agreement for an additional 60 days
181 after the original termination date, without any additional
182 charge.

183 (a) The provider must ~~shall~~ require, ~~that~~ as a condition of
184 providing a grace period, that the drawer make an appointment



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185 with a consumer credit counseling agency within 7 days after the
186 end of the deferment period and complete the counseling by the
187 end of the grace period. The drawer may agree to, comply with,
188 and adhere to a repayment plan approved by the counseling
189 agency. If the drawer agrees to comply with and adhere to a
190 repayment plan approved by the counseling agency, the provider
191 must also comply with and adhere to that repayment plan. The
192 deferred presentment provider may not deposit or present the
193 drawer's check for payment before the end of the 60-day grace
194 period unless the drawer fails to comply with such conditions or
195 the drawer fails to notify the provider of such compliance.

196 Before each deferred presentment transaction, the provider may
197 verbally advise the drawer of the availability of the grace
198 period consistent with the written notice in subsection (20),
199 and may not discourage the drawer from using the grace period.

200 (b) At the commencement of the grace period, the deferred
201 presentment provider must ~~shall~~ provide the drawer:

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

204 2. A list of approved consumer credit counseling agencies
205 prepared by the office. The office list must ~~shall~~ include
206 nonprofit consumer credit counseling agencies affiliated with
207 the National Foundation for Credit Counseling which provide
208 credit counseling services to state residents in person, by
209 telephone, or through the Internet. The office list must include
210 phone numbers for the agencies, the counties served by the
211 agencies, and indicate the agencies that provide telephone
212 counseling and those that provide Internet counseling. The
213 office must ~~shall~~ update the list at least once each year.



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

216
217 AS A CONDITION OF OBTAINING A GRACE PERIOD EXTENDING
218 THE TERM OF YOUR DEFERRED PRESENTMENT AGREEMENT FOR AN
219 ADDITIONAL 60 DAYS, UNTIL [DATE], WITHOUT ANY
220 ADDITIONAL FEES, YOU MUST COMPLETE CONSUMER CREDIT
221 COUNSELING PROVIDED BY AN AGENCY INCLUDED ON THE LIST
222 THAT WILL BE PROVIDED TO YOU BY THIS PROVIDER. YOU MAY
223 ALSO AGREE TO COMPLY WITH AND ADHERE TO A REPAYMENT
224 PLAN APPROVED BY THE AGENCY. THE COUNSELING MAY BE IN
225 PERSON, BY TELEPHONE, OR THROUGH THE INTERNET. YOU
226 MUST NOTIFY US WITHIN 7 DAYS, BY [DATE], THAT YOU HAVE
227 MADE AN APPOINTMENT WITH A CONSUMER CREDIT COUNSELING
228 AGENCY. YOU MUST ALSO NOTIFY US WITHIN 60 DAYS, BY
229 [DATE], THAT YOU HAVE COMPLETED THE CONSUMER CREDIT
230 COUNSELING. WE MAY VERIFY THIS INFORMATION WITH THE
231 AGENCY. IF YOU FAIL TO PROVIDE THE 7-DAY OR 60-DAY
232 NOTICE, OR IF YOU HAVE NOT MADE THE APPOINTMENT OR
233 COMPLETED THE COUNSELING WITHIN THE TIME REQUIRED, WE
234 MAY DEPOSIT OR PRESENT YOUR CHECK FOR PAYMENT AND
235 PURSUE ALL LEGALLY AVAILABLE CIVIL MEANS TO ENFORCE
236 THE DEBT.

237
238 (c) If a drawer completes an approved payment plan, the
239 deferred presentment provider must ~~shall~~ pay one-half of the
240 drawer's fee for the deferred presentment agreement to the
241 consumer credit counseling agency.

242 (23) For deferred presentment installment transactions, if



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243 a drawer informs the deferred presentment provider in writing or
244 in person by noon of the business day before a scheduled payment
245 that the drawer cannot pay in full the scheduled payment amount
246 due and owing the provider, the deferred presentment provider
247 must provide the drawer the opportunity to defer the scheduled
248 payment, at no additional fee or charge, until after the last
249 scheduled payment. The phrase "by noon" means 12:00 p.m. of the
250 same time zone in which the deferred presentment agreement was
251 entered into. Only one deferred payment is permitted for each
252 deferred presentment installment transaction. The deferred
253 payment must be due at an interval after the last scheduled
254 payment which is no shorter than the intervals between the
255 originally scheduled payments.

256 (24) (a) ~~(23)~~ The office must ~~shall~~ implement a common
257 database with real-time access through an Internet connection
258 for deferred presentment providers, as provided in this
259 subsection. The database must be accessible to the office and
260 the deferred presentment providers in order to verify whether
261 any deferred presentment transactions are outstanding for any
262 drawer in a particular household ~~person~~. Deferred presentment
263 providers must ~~shall~~

264
265 ===== T I T L E A M E N D M E N T =====

266 And the title is amended as follows:

267 Delete lines 380 - 414

268 and insert:

269 exclusive of fees; revising and specifying the maximum
270 interest, fees, and charges that deferred presentment
271 providers or their affiliates may charge, collect, or



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272 receive in deferred presentment transactions and
273 deferred presentment installment transactions,
274 respectively; specifying the calculation of fees
275 earned for deferred presentment installment
276 transactions; prohibiting prepayment penalties;
277 specifying the minimum and maximum terms of a deferred
278 presentment installment transaction; specifying dates
279 that checks must bear; authorizing providers of
280 deferred presentment installment transactions to
281 accept additional checks subject to certain
282 limitations; requiring the deferred presentment
283 agreement to include the deferment period applicable
284 to each check; correcting a reference to federal law;
285 providing an exception to a prohibition against the
286 acceptance or holding of undated checks or checks with
287 certain dates by a deferred presentment provider or
288 its affiliate; prohibiting deferred presentment
289 providers from entering into deferred presentment
290 transactions or deferred presentment installment
291 transactions with a drawer, if the drawer or any other
292 person in the drawer's household has an outstanding
293 deferred presentment transaction or deferred
294 presentment installment transaction, or within a
295 specified timeframe after the termination of the
296 previous deferred presentment transaction or deferred
297 presentment installment transaction of the drawer or
298 any other person in the drawer's household; defining
299 the term "household"; conforming a cross-reference;
300 providing a verification process that may be relied



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301 upon under certain conditions; revising a notice in
302 deferred presentment agreements; authorizing a drawer
303 to inform a provider in writing that the drawer cannot
304 redeem or pay in full the amount due and owing to the
305 provider; providing an exception to a prohibition,
306 under certain circumstances, against a deferred
307 presentment provider's deposit or presentment of a
308 drawer's check; requiring a provider of a deferred
309 presentment installment transaction to allow a drawer
310 to defer one scheduled payment under certain
311 circumstances; providing requirements for the deferred
312 payment; revising a requirement for the common
313 database for deferred presentment providers;
314 specifying the frequency a certain fee may be imposed
315 by Financial Services Commission rule for data on
316 certain transactions submitted by deferred presentment
317 providers to the database; providing